that type could not be financed through port tariffs. This was in the context of a campaign by different sectors to say that collective bargaining agreements were "privileges" for workers. The Treasury Secretary refused to enforce the payment of the convention's benefits with reference to the same Articles that the Defensoría de los Habitantes contested before Court IV in August 2003 (which has yet to be resolved). One news article said that the Treasury Secretary determined that Japdeva "had problems controlling its expenses, and the collective bargaining agreement and the union organization had repercussions on the conflictive administrative business". (La Nación January 12, 2004).

All of these factors contribute to the deterioration of the conditions of public employment, to the lack of enthusiasm for collective bargaining in general and to the creation of a negative image of this instrument as a rational and balanced mechanism to establish relationships between workers and employers.

FIGURES ON THE APPLICATION OF COLLECTIVE BARGAINING AGREEMENTS AND DIRECT ACCORDS

The following table compares the number of collective bargaining agreements and the number of direct accords signed between 1998 and 2003. There are a disproportionately high number of direct accords. If it could be proven that the direct accords are often promoted as a mechanism for replacing the instrument of collective bargaining, it would demonstrate the way the employers and anti-union sectors manipulate working conditions and labor relations. This has yet to be shown, because the state authorities do not systematize the information.

NUMBER OF APPROVED COLLECTIVE BARGAINING AGREEMENTS AND DIRECT ACCORDS 1998-2003

	1998	1999	2000	2001	2002	2003
Approved collective bargaining agreements	16	8	11	3	7	6
Approved direct accords	73	82	37	50	33	63

Source: ASEPROLA, with a basis on research by MTSS. Fuster, Diana. 2003/2004.

This data makes more sense if we compare the number of agreements signed in each economic sector. In the private sector and the agricultural sector, direct accords are much more common than collective bargaining agreements. Again, our hypothesis is that direct accords are a type of employer "solution" to unionization in Costa Rica. The institutional context that does not promote unionization or collective bargaining, the repression of unions in the agricultural sector, and the economic crises that the agricultural regions confront as a result of globalization, are all factors that support our hypothesis. The data supports this line of thinking; if we look at the last table which refers to the number of instruments subscribed to during the 1970s, we can see that that is the moment in history when anti-union repression increased, and when collective bargaining began to lose strength and be replaced by direct accords, which were the instrument openly used by solidarity associations until the 1993 Labor Code reforms (and then later still used, but not openly).

NUMBER OF COLLECTIVE BAGAINING AGREEMENTS PRESENTED, BY SECTOR. 1998-2003

	Agricultural	Private, non-agricul.	Public
1998	2	6	8
1999	1	0	7
2000	3	7	1
2001	1	1	1
2002	1	1	5
2003	1	3	2

NUMBER OF DIRECT ACCORDS PRESENTED, BY SECTOR. 1998-2003

	Agricultural	Private, non-agricul.	Public
1998	61	12	ND
1999	72	6	ND
2000	31	6	ND
2001	38	12	ND
2002	44	7	ND
2003	65	8	ND

NUMBER OF APPROVED COLLECTIVE BARGAINING AGREEMENTS AND DIRECT ACCORDS 1978-1985, 1990-1995

Year	1978	1979	1980	1981	1982	1983	1984	1985	1990	1991	1992	1993	1994	1995
Direct accords	8	16	10	14	17	34	18	24	68	28	100	88	65	50
Collective bargaining agreements	46	35	52	42	34	19	34	26	30	10	21	25	11	20

B.2.4. Perspectives on the future of these laws.

There are two existing bills in the legislature related to the topic under analysis:

- The Law of the Collective Bargaining Agreements in the Public Sectorx and the addition of a section (5) to Article 112 of the General Law of Public Administration. Record No. 14,675 responds to a recommendation by the ILO to define the matters that may be included in collective bargaining agreements in the public sector. This initiative also creates a Commission of Policies for the Negotiation of Collective Bargaining Agreements in the Public Sector;
- The approval of ILO Convention No. 154 on Collective Bargaining, which is Record No. 14,543. This bill is in the first stages of debate in the Legislative Plenary (position #3);
- The approval of ILO Convention 151 on Labor Relations in Public Service. This bill is filed in Record No. 14,542 and is also in the privileged stage of debate.

The approval of Conventions 151 on Labor Relations in Public Service (Record No. 14,542) and Convention No. 154 on Collective Bargaining (Record No. 14,543) is being debated in the Legislative Assembly. Both texts are in the Legislative Plenary in stages 2 and 3 respectively (at the time of writing). However, it appears that neither has much

support in the legislature. Proof of this is that, despite being in privileged stages in the legislative current, they are not being forcefully promoted. It is worth mentioning, however, that based on the last convocation of labor-related bills made by the Executive Branch (Decree N°31503-MP of December 2003), the following bills were convoked for extraordinary sessions of the Legislative Assembly: Record No. 15.161 (reform of several articles of the Labor Code) and Record No. 13.818 (Law promoting the employment of minors). As you can see, the bills related to the International Conventions are not on the list, and the two that are, are closely related to the possibility of making structural changes to the employment systems in the country (one allowing for the incorporation of child labor and the other to establish flexible labor shifts).

With respect to the future of these two bills, taking into account the judgments of the Constitutional Chambers related to collective bargaining agreements in the public sector (Opinion 6973-00; Opinion 4453-00; Opinion 7730-00; and Opinion 244-01), it is anticipated that when the International Conventions are submitted to a Tribunal, that it may not accept them because such instruments should first pass through a constitutional control, by way of a "Preceptive Consultation of Constitutionality." If it is the position of that Organ that negotiation in the public sector is constitutional, that would lead to an outcome of the same result.

National authorities have stated their intention to elevate Decree No. 29576-MTSS to the status of law (ILO Examination of an individual case related to Convention 98. Session 90. Document 28. 2002). Bill No. 14,675 provides some of the same conditions, given, as discussed in section B.1.5. of this study, that certain elements are not shared by the workers (for example, the "Commission of Policies for Collective Bargaining Agreements in the Public Sector").

Finally, governmental authorities have proposed a constitutional reform to legitimize the right of public employees to collective negotiations, through a modification to Article 192 of the Constitution, so that it would read: [11]

> " Article 192: With the exceptions determined by this Constitution and the Statute of Civil Service, public servants will be appointed on the basis of their proven suitability and may only be removed for the causes of justified termination stipulated in the labor legislation, or in the event of a forced reduction of services, be it from a lack of funds or to achieve an improved organization of services. Except for high-ranking functionaries in the public administration and those who manage the public administration, according to the determination of the law, public employees shall have the right to negotiate collective labor agreements."

The underlined text is the part that would change the current text. As you can see, its goal is to exclude high-ranking functionaries. However, the jobs involved in the "management of public administration" are not clearly defined. Thus this modification allows the institutional hierarchy to determine the definition, with the

[11] ILO Examination of an individual case related to Convention 98. Session 90, Document 28. 2002

corresponding danger that they will subordinate the "public interest" to the "administration's interest."

B.3. PARALLEL NON-LABOR LEGISLATION:

B.3.1. General reference to these legal standards

The standards concerning collective bargaining in the public sector are those contained in the General Law of Public Administration (LGAP) (Articles 111 and 112, cited above). However, in the particular contexts in which they have been discussed, it appears that public employment laws are more relevant than administrative laws. Therefore, it does not make sense to incorporate them in this section. In any event, reference to these articles of the LGAP has been made throughout this chapter.

B.4. OBSTACLES TO THE ENFORCEMENT OF THE LABOR LAWS RELATED TO COLLECTIVE BARGAINING:

B.4.1. List of obstacles

1. THE ABSOLUTE REFUSAL TO PERCEIVE PUBLIC FUNCTIONARIES AS SUBJECTS OF COLLECTIVE BARGAINING. Prejudicial conceptualizations (that are part of the anti-worker constitutional case law) impede the possibility that labor conditions may be negotiated in the public administration. This is supported by a restrictive interpretation of Article 192 of the Constitution, which refers to the appointment of public servants and their subordination to the Constitution and to the Civil Service Statute, though this Article does not prohibit collective bargaining of employees in public administration.

2. NEGOTIATION IS NOT PERCEIVED AS A COMPONENT OF THE LABOR RELATIONSHIP. A harmful perception exists that characterizes collective bargaining in the public sector as impossible, despite the fact that labor conditions by definition, in all realms, are the product of more or less formal processes of negotiation.

3. THE AGREEMENTS PROMOTED BY NON-UNIONIZED ENTITIES ARE INSUFFICIENT. One of the characteristics of the negotiation processes promoted by the "organizations of employer's influence" is that their agreements almost never contain conditions superior to the minimum legal requirements.

4. ANTI-UNION CAMPAIGNS UNDERMINE COLLECTIVE BARGAINING. The anti-union campaigns promoted by employers and tolerated by the governmental authorities undermine the possibility of achieving broad union participation.

5. THE LIMITATIONS ON COLLECTIVE BARGAINING IN THE PUBLIC SECTOR. Rationality and proportionality of the elements included in a collective agreement are some of the most difficult aspects to balance in the negotiation process.

6. THE REALITY OF THE DEBATE ON LABOR CONDITIONS IN COSTA RICA. In Costa Rica, collective bargaining agreements are executed less and less. More agreements made without union participation are concluded in their place.

7. THE MEDIATIONAL NATURE OF THE GOVERNMENT'S PROPOSALS TO CREATE SUPERIOR BODIES TO CONTROL COLLECTIVE BARGAINING IN THE PUBLIC SECTOR. The proposals (including the Regulation of Collective Bargaining Agreements in the Public Sector by means of Executive Decree No. 29576-MTSS of May 31, 2001) that the government promotes to regulate collective bargaining agreements in the public sector, [such as the "Commission of Policies for Collective Bargaining Agreements in the Public Sector, stipulated in the aforementioned Decree of 2001, which acts (due to its composition) as both judge and party], undermine the rights of workers. There is also the risk that these state bodies do not always act according to the "public interest," but rather according to the "interest of the administration" (Article 113.2, General Law of Public Administration). It appears that the proposals that facilitate collective negotiation in the public sector are based on the fact that the negotiations would be forbidden to those who "manage the public administration." But allowing the administrative hierarchy to define who is involved in that management is an objective obstacle.

8. THE STRUGGLE TO ERADICATE THE HARM TO COLLECTIVE BARGAINING IN THE PUBLIC SECTOR. The Ombudsman has said that collective bargaining agreements are the ideal way to improve labor conditions. In some cases, however, he has taken an antagonistic position to the labor movement, stating that some collective agreements have been unable to justify the irrational privileges they contain that openly conflict with the Political Constitution.

9. THE STANDARDS PROMOTED BY THE DIRECT AGREEMENTS DO NOT GUARANTEE THE PROMOTION OF UNIONISM. Article 504 of the Labor Code paves the road against union promotion, by establishing that employers and workers may resolve their differences by direct agreement, through their own intervention or with that of any other friendly third parties and by institutionalizing the Permanent Workers' Councils or Committees. The principle of the ILO of not allowing direct agreements except where unions do not operate (International Labor Office, 2002: 392), should be amended so that the rule will be applied if and only if it is proven that in each workplace there has been a real promotion of the potential for unionism and that the workers have not accepted it.

10. LACK OF ADVANCEMENT IN INTERNAL STANDARDS. The government authorities do not undertake serious efforts to carry out reforms at the constitutional, convention, and legal levels.

11. CASES OF DENUNCIATIONS OF THE RIGHT TO COLLECTIVE BARGAINING. Cases on the right to collective bargaining have been reported in several sectors. Two of these are mentioned below:

- Complaint of SINDEU-SEC and SIPROCIMECA, before the ILO for Restriction of the Right to Collective Bargaining, Case 2104 (2001).

- Denunciations by Union Centrals in the Public Sector against the Case Law of the Constitutional Chamber that denied the right to collective bargaining agreements in the Public Sector.

B.4.2. Enforcement of the referred cases by sector

Multinational Corporations

In the realm of multinational corporations, where unionism is extremely reduced, collective bargaining generally does not structure labor relations. Statistics were not found on the number of collective bargaining agreements in this sector, aside from the companies involved in agriculture (which will be covered below). The transnational companies' policies promote solidarity organizations and repress unions, and show a preference for direct accords over collective bargaining agreements.

Public Sector

Clearly this is the sector that has been most affected by the concrete problem of collective bargaining, as laws and interpretations of these laws simply foreclose the possibility.

The expectation that the national legal system will approve Conventions 151 and 154 of the ILO is a joke by the governmental authorities to the international community (at ILO conferences), since (as discussed in section B.2.4.) just as the Constitutional Chamber has been forceful in its disapproval of collective bargaining for public functionaries, so it is also likely to reject any international convention that attempts to introduce this into the system.

With regard to the constitutional reform (section B.2.4.), the government's framing of the question is remiss, and in the long run, it will not resolve the issue.

Agricultural Sector

As evidenced by the example of a Direct Agreement in the case of the Estibadora Caribe Sociedad Anónima and the Permanent Workers' Committee (in section B.2.3.), the conditions for the autonomous development of the workers' will mediated by the employers' interests, as they take advantage of the little influence of administrative agencies and the absolute lack of union promotion in the system.

C. Elimination of Forced Labor and Mandatory Overtime

CENTRAL THEME	National Labor Laws	International Standards / ILO Conventions	Principal Changes Last Five Years	Parallel Legislation	Obstacles to Enforcement
Elimination of Forced Labor *Elimination of Forced Labor and Forced, Mandatory Overtime means that all labor or services demanded from an individual under threat of any penalty and which the individual does not voluntarily offer.* Elimination of Obligatory Overtime. *Is the "availability" the boss or employer has, of the labor force of his or her employees, and in the minimum legal breaks. The duration of the work shift can be computed according to a daily, weekly, monthly, or annual model, depending on the needs of the business and the legislation of each country. Work in excess of that work shift (which is considered ordinary) – generally eight hours a day, six days a week – will be considered overtime.*	Arts 20 and 58 of the Political Constitution. Art. 104 of the Labor Code, related to domestic service.	C29 Convention on forced labor, 1930 C105 Convention on the abolition of forced labor, 1957	*None detected*	*None detected*	*For certain cases where labor conditions are arduous, it is considered that redaction is permissive and affects rights, especially because of the lack of administrative regulation.*

C.1. RELEVANT NATIONAL LABOR STANDARDS

C.1.2. Constitutional Laws

The constitutional articles related to the topic of analysis in this section are Articles 20 and 58 of the Political Constitution.

Article 20 provides that "all people are free in the Republic, and anyone under protection of the law cannot be a slave." This provision means that practices against a person's will, or in the context of work, "forced labor," will not be permitted.

Article 58 establishes that "overtime work shall be compensated 50 percent more than the stipulated pay or salary. However, these laws shall not apply under very narrow exceptions determined by the law." This article leaves the standard to be further implemented by the law and also allows for exceptions to the obligation of compensation for overtime work.

C.1.3. Convention-Based laws

The Costa Rican system has approved two international instruments related to the subject of forced labor. ILO Convention 29 on Forced Labor (1930) establishes that every State that approves this Convention commits to eliminating forced, mandatory labor in all its forms. Convention 105, the Convention on the Abolition of Forced Labor (1957) similarly calls on States that approve it to commit to eliminating forced, mandatory labor in all its forms.

Costa Rica has not approved any international instrument on forced overtime.

Cases documenting the forced labor of convicts subject were not found in judicial case law or at the Ombudsman's Office. The forced labor of convicts is covered by the "Minimum Rules for the Treatment of Prisoners," adopted by the First Congress of the United Nations on the Prevention of Crime and Treatment of the Criminal, which took place in Geneva in 1955. This instrument was approved by the Economic and Social Council in Resolutions 663C (XXIV) of July 31, 1957 and 2076 (LXII) of Mayo 13, 1977, making them a source of law in Costa Rica. These rules state in Articles 71 to 76:

71. (1) Prison labor shall not be of a punitive character. (2) All condemned shall have the obligation to work according to their physical and mental capacity, according to a doctor's determination. (3) Prisoners shall be given productive work, sufficient to occupy them during the course of a normal shift. (4) To the extent possible, that work shall contribute to maintaining or increasing the prisoner's capacity to earn an honorable living after his release. (5) Professional or vocational training shall be made available to those prisoners who are in condition to take advantage of it, especially young prisoners. (6) Within the limits of a rational profession and the demands of the administration and prison discipline, prisoners shall be able to choose the kind of work they desire.

72. (1) The organization and methods of prison work shall be as similar as possible as those which are applied to a similar job outside of the establishment, the goal being to

prepare the prisoners for the normal conditions of a free life. (2) However, the interests of the prisoners and of their professional training shall not be subordinated to the desire of the prison industry to receive pecuniary benefits.

73. (1) Prison industries and farms should preferably be directed by the administration and not by private contractors. (2) Prisoners employed in a job not financed by the administration will be under the monitoring of the penitentiary's personnel. Unless the work is being done for another governmental agency, the persons for whom the work is being done shall pay the administration the normal salary commanded for that work, taking into account the output of the prisoner.

74. (1) In prison establishments, the same prescribed precautions will be taken that protect the health and safety of free workers. (2) Measures will be taken to compensate prisoners for accidents on the job and labor-related illnesses, under similar conditions that the law provides for free workers.

75. (1) The law or administrative regulation will set the maximum number of hours prisoners can work per day and per week, taking into account the regulations or local standards with respect to the employment of free workers. (2) The set hours shall leave one day of rest per week and sufficient time for instruction and other foreseeable activities for the treatment and rehabilitation of the prisoner.

76. (1) Prisoners' work shall be remunerated in an equitable manner. (2) The regulation shall permit prisoners to use at least one part of their remuneration to acquire objects for their personal use and to send another part to their families. (3) The regulation shall also provide that the administration reserve a part of the remuneration to create a fund that shall be given to the prisoner upon his or her release.

These articles are important because they delineate the basic parameters that indicate the kinds of cases in which forced labor issues arise in the prison system.

C.1.4. National Statutes

Articles 135, 136, and 138 of the Labor Code establish that the day shift shall be between 5 a.m. and 7 p.m., and the night shift from 7 p.m. until 5 a.m. Shifts should not exceed eight hours during the day, six hours for a night shift, and seven hours if it is a mixed shift. However, Article 136 of the Labor Code authorizes "for jobs that are not unhealthy or dangerous, a day shift of up to ten hours and a mixed shift up to eight hours." The latter provision is protected by the exception in Article 58 of the Constitution.

There is no law or section of the Labor Code that expressly refers to forced labor.

This section would not be complete without a reference to the labor conditions of "domestic servants," which are very arduous, although they cannot be strictly conceived of as forced labor or mandatory overtime. The Labor Code refers to the situation of domestic servants in Articles 101-108.

ARTICLE 104.- Domestic servants shall be governed by the following special rules:

> (c) They shall be subject to an ordinary work shift of a maximum of twelve hours, with the right to a break of a minimum of one hour, which may coincide with the times allocated for meals. For shifts of fewer than twelve hours but more than five, the break shall be proportional to the hours. The shift may be divided in two or three fractions, distributed within a lapse of fifteen hours, counted from the beginning of work. Overtime may be arranged for an additional four hours, and they shall be compensated for the overtime according to Article 139 of this Code. Domestic servants who are older than twelve but younger than eighteen may not work shifts longer than twelve hours;

But for domestic servants, the day of rest is also reduced, unlike for other labor activities. The following subsection provides that:

> (d) They shall enjoy, without harm to their salary, a half shift of rest on any day of the week, of the employer's choice; however, at least twice a month, the rest shall be on a Sunday;

These workers also see their salary rights curtailed, as they are the lowest-paid workers in the Costa Rican salary system.

There are other extended shifts in the system, such as those related to transportation services, land shipping, and other similar occupations.

C.2. PRINCIPAL CHANGES IN THE LAWS RELATED TO FORCED LABOR AND MANDATORY OVERTIME IN THE LAST TEN YEARS.

C.2.1. Relevant Statutes

For neither of the topics covered in this section were legal standards found.

C.2.2. The consequences of enforcing these laws

The real use of "forced labor", such as in the maquila sector in Central America, has inspired international campaigns to raise awareness about the subject. One example is the case of a T-shirt factory from Montreal, Canada called "Gildan Activewear".[12] The company tried to discredit and suppress a report about its labor practices in Central America and Mexico that had been recently co-published by the Network in Solidarity with Maquila Workers and the Independent Monitoring Team of Honduras.

This report documents massive terminations of union members, inadequate salaries, high production quotas, health problems and issues of child care related to the hours of work and rate of production, the concern of workers that urine and blood tests were taken of new

[12] http://www.maquilasolidarity.org/espanol/campanas/ s3gildan.htm

employees to determine pregnancy, and other problems in the workplace. The report concludes with a series of recommendations to Gildan and its shareholders to ensure respect the labor rights of workers in its factories and in those of its subcontractors.

This case evidences situations that are not documented by the Costa Rican system, but that occur in certain companies in this line of business (Interview, Luis Serrano).

C.2.3. Perspectives on the future of these laws

Legislative record No. 13,413 attempted to establish more favorable conditions for domestic workers (defined in the text as "persons who dedicate themselves habitually and systematically to the labor of cleaning, cooking and other chores in a private home or residence and does not earn money for the employer"). According to the criteria of the workers' movement that has supported it (e.g., the Union Association of Domestic Workers – ASTRADOMES – as well as the entities that support human rights, such as the Ombudsman of the People), it is a legal initiative that was widely consulted. It received the support of the different involved sectors, such as the Ministry of Labor, the Supreme Court of Justice, housewives who work outside of the home, and other groups mentioned above.

Another important issue is the shifts worked by domestic workers. For more than 13 years, the union that organizes domestic servants has struggled for the approval of the bill "On the Work of Domestic Service," File No. 13,413 (Interview, Rosita Acuña). This legislative initiative, which had unanimous affirmative support at the beginning of 2003 and was to be recognized by the Legislative Plenary, set out to reform Chapter VIII of the Labor Code. It implied the modification of Articles 101-08 of the Code, eradicating the interpretations that were undermining the dignity of these workers (e.g., the issue of "probationary periods"). The proposal sought to add an Article 102 B, referring to the notification of the relation of domestic work, and an Article 104 that would reform the maximum ordinary shift to ten hours with one hour for meals and a full day of rest. In mid-2003 the bill was tabled.

The following table compares excerpts from the current text governing the subject and the proposed bill:

TABLE ON THE REFORM OF CHAPTER VIII OF THE LABOR CODE:
"ON THE WORK OF DOMESTIC SERVICE"

CHAPTER VIII
ON THE WORK OF DOMESTIC SERVICE

EXCERPT FROM CURRENT TEXT	EXCERPT FROM TEXT OF BILL
ARTICLE 101.- Domestic servants are those who, habitually and systematically, work in cleaning, cooking, help, and other chores of a private household or residence, and who do not earn money for the employer. *(So reformed by Article 1 of Law No. 3458 of November 20,1964.)*	Article 101.- Domestic workers are persons who, habitually and systematically, work in cleaning, cooking, help, and other chores of a private household or residence, and who do not earn money for the employer.
ARTICLE 102.- In the labor contract for domestic service, the first 30 days shall be considered a	Article 102. – The probationary period in domestic work will be one month, during which either party

probationary period and any party may terminate the contract without prior notice or liability. After this time, the party that wishes to terminate the contract must give 15 days notice to the other party, or compensate the other party for that time: however, after one year, one month's notice must be given. During that time period, the employer must give the worker half a shift off work every week to look for another job. *(So reformed by Article 1, Law No. 3458 of November 20, 1964.)*	may terminate the labor relation without liability. Once this period has lapsed, the party that wishes to terminate the contract must give the other 15 days notice. After one year, one month's notice must be given. In both cases, the non-complying party shall compensate the other for that time. During this period, the employer must give the worker half a shift off work every week to look for another job.
	Article 102 B.- The employer and the worker will notify in writing the National Office on Labor Inspection of the Ministry of Labor and Social Security and the Costa Rican Social Security Fund every domestic service relationship, so that they may monitor for minimal compliance with the standards governing this subject. Notification shall take place as soon as the probationary period established by this Code comes to an end. Lack of compliance with this obligation shall constitute a punishable offense, in accordance with Article 608 of this Code.
ARTICLE 103.- The employer may demand from the domestic servant, as a prerequisite to formalize the contract, and every semester of its duration, a certificate of good health from any doctor employed by the State or its institutions. The doctor's services shall be granted free of charge. *(So reformed by Article 1 of Law No. 3458 of November 20,1964.)*	Article 103.- The employer may demand from the domestic servant, as a prerequisite to formalize the contract, a certificate of good health from any doctor employed by the State of its institutions. The employer is under an obligation to grant the worker labor risk insurance in accordance with Article 201 of the Labor Code.
ARTICLE 104.- Domestic servants shall be governed by the following special rules:	Article 104.- Domestic servants shall be governed by the following special rules:
a) They will be obligated to work with careful attention and care, according to the needs and interests of the employer and to follow his or her instructions and use discretion, especially regarding family life;	a) They shall lend their services with responsibility, careful attention and care, seriousness, respect, and use discretion in all facets of family life. They will be obligated to compensate their employer for any material damage occasioned by their negligence or lack of skill;
b) They shall collect their pay in cash, which in no case shall be lower than the minimum wage. They shall also receive a [*salvo pacto o práctica en contrario*], adequate room and board, which shall be considered payment in kind, for relevant legal purposes;	b) The shall collect their pay in cash, which shall correspond to the minimum wage established by the appropriate entity. In addition, [*salvo pacto o práctica en contrario*]. Room and board shall be considered payment in kind only if the parties so agree, for relevant legal purposes;
c) They will be subject to a maximum ordinary shift of twelve hours, having the right within this time to a break of at least one hour, which may coincide with meal times. For shifts of between five and twelve hours, the break shall correspond to the hours of the shift. The shift may be divided into two or three fractions, distributed within a lapse of fifteen hours, counted from the beginning of work. Overtime may be arranged for an additional four hours, and they shall be	c) The will be subject to a daily shift of ten hours, of which one shall be allocated to a meal break. For shifts of between five and ten hours, the break will be proportionate to the hours of the shift. Both parties may agree to an extraordinary shift of up to four hours daily. This type of agreement shall be compensated according to Article 139 of this Code.

compensated for the overtime according to Article 139 of this Code. Domestic servants who are older than twelve years but younger than eighteen may not work shift longer than twelve hours;	
d) They shall enjoy, without harm to their salary, a half shift of rest on any day of the week of the employer's choice; however, at least twice a month, the rest shall be on a Sunday;	d) They shall enjoy one day of paid rest each week, the day to be determined by agreement of both the employer and the worker. At least twice a month, said rest shall be on a Sunday.
e) On days which have been classified by this Code as paid holidays, they will have the right to half a shift off work, or instead to receive an additional half a shift's pay if the employer requires them to work;	e) On days which have been classified by this Code as paid holidays, they will have the right to half a shift off work, or instead to receive overtime pay for that shift, if at the employer's request, the worker agrees to work.
f) They shall have the right to fifteen days of paid vacation every year, or a prorated amount of days if the contract terminates before fifty weeks;	f) They shall have the right to fifteen days of paid vacation every year, or a prorated amount of days if the contract terminates before fifty weeks;
g) Minors under the age of fourteen shall have license to obtain a primary education; and	g) In the event of temporary disability caused by sickness, professional risk, or other cause, they shall have the right to the benefits established in Article 79 of this Code; however, the provisions of subsection (a) of that Article shall be recognized from the first month of service. But if the sickness is caused by a contagion obtained from people in the house, they shall have the right to collect their complete salary for up to three months of disability, and invariably, the reasonable costs occasioned by their sickness shall also be covered. The domestic servant who infects those living in the house with a contagious illness may be fired without the employer incurring any liability, in accordance with subsection (h) of Article 81 of this Code.
h) In the event of temporary disability caused by sickness, professional risk, or other cause, they shall have the right to the benefits established in Article 79 of this Code; however, the provisions of subsection (a) of that Article shall be recognized from the first month of service. But if the sickness is caused by a contagion obtained from people in the house, they shall have the right to collect their complete salary for up to three months of disability, and invariably, the reasonable costs occasioned by their sickness shall also be covered. *(So reformed by Article 1 of Law No. 3458 of November 20, 1964.)*	h) The State, through the Ministry of Labor and Social Security, shall grant legal counsel to all domestic workers who do not have legal defense.
ARTICULO 105.- In cases of illness categorized as mandatory declarations under Article 153 of the Health Code, if the employer or the domestic servant are at risk of contagion, they may suspend the contract for the duration of the illness, unless it was contracted under the terms of the final paragraph of subsection (h) of the previous article. *(So reformed by Article 1 of Law No. 3458 of November 20, 1964.)*	Article 105.- In cases of illness categorized as mandatory declarations under Article 158 of the General Health Law, if the employer or the worker is at risk of contagion, they may suspend the contract for the duration of the illness, unless it was contracted under the terms of the final paragraph of subsection (g) of the previous article.
ARTICLE 106.- A noticeable lack of respect or	Article 106.- The worker and the members of the

good treatment on the part of the domestic worker toward those people to whom s/he owes such respect in the function of the job, shall be just cause to terminate the contract without employer's liability. *(So reformed by Article 1 of Law No. 3458 of November 20, 1964.)*	family for whom s/he works owe each other respect and good treatment. The noticeable lack of respect between the parties constitutes just case for either to terminate the labor relationship, with liability on the non-complying party.
ARTICLE 107.- If the domestic servant's contract ends due to an unjustified termination, by resignation caused by serious offenses of the employer or by those who live with him, or by death or by *force majeure*, the worker or the worker's rights-possessor referred to in Article 85 of this Code, shall have the right to compensation in accordance with the rules established by Article 29 of this Code. *(So reformed by Article 1 of Law No. 3458 of November 20, 1964.)*	Article 107.- If the domestic servant's contract ends due to an unjustified termination, by resignation caused by serious offenses of the employer or by those who live with him, or by death or by *force majeure*, the worker or the worker's rights-possessor referred to in Article 85 of this Code, shall have the right to compensation in accordance with the rules established by Article 29 of this Code.
ARTICLE 108.- The provisions of this Code, as well as its supplements and annexes, shall be applied, except where other provisions apply, to aspects of the regimen of domestic service not covered specifically by this Chapter, in a manner consistent with the special characteristics of domestic service. *(So reformed by Article 1 of Law No. 3458 of November 20, 1964.)*	Article 108.- The provisions of this Code, as well as its supplements and annexes, shall be applied, except where other provisions apply, to aspects of the regimen of domestic service not covered specifically by this Chapter, in a manner consistent with the special characteristics of domestic service.

The law distinguishes the characteristics of this type of work with respect to jobs with a "schedule of availability" and those "without a schedule or constant supervision."

Work "on a schedule of availability" constitutes a special, different category. The labor related to these chores has more benefits, in relation to other jobs, such as the enjoyment of payment in kind or the absence of constant supervision throughout the shift. Its characteristic would be a schedule of "availability" that complements the work of the housewife who depends on this type of assistance to attend to the administration of her home.

Work "without a schedule or constant supervision," including the work of domestic servants, drivers, and chauffeurs, constitutes discrimination and abuse, and should be eliminated.

When domestic employees are made to work on holidays, those hours are generally not paid overtime. This is a fundamental standard that is not clear in the labor legislation.

C.3. PARALLEL NON-LABOR LEGISLATION:

No specific laws were found.

C.3.1. Perspectives on the enforcement of these laws and how they affect compliance with the elimination of forced labor and mandatory overtime

One of the important factors in the analysis of "forced labor" is the role that transnational companies play in the countries of the region. One of the main obstacles in Costa Rica is that despite the sense that foreign companies scorn domestic law, the Ministry of Labor does not maintain systematized files to show the history of these companies in terms of such issues.

C.4. OBSTACLES TO THE ENFORCEMENT OF THE LABOR LAWS RELATED TO FORCED LABOR AND MANDATORY OVERTIME:

C.4.1. List of obstacles

1. THERE IS NO POLITICAL WILL TO DEFEND THE RIGHTS OF THE SECTORS THAT WORK ACCORDING TO A "SCHEDULE OF AVAILABILITY". Given that for more than ten years, the legislative proposal to regulate improved employment conditions for domestic workers was on the legislative agenda, and that it was finally tabled, one can conclude that there is no political will in the system to eradicate the forced conditions of labor in which domestic servants work.

2. THERE ARE NO ARCHIVES FOR COMPARING RIGHTS VIOLATIONS. The MTSS does not maintain a record system on violations of labor law.

3. IT IS NOT A STRATEGIC MOMENT TO APPROVE MEASURES THAT FAVOR THE MOST EXPLOITED SECTORS OF LABOR. In the context of the new employment conditions being imposed (characterized by deregulation and labor flexibility), it is not a strategic moment to achieve changes for those sectors laboring under "schedules of availability". It may be better to think of how it would be possible to achieve within the system a reduced work shift for those groups that have historically been the most exploited, when in other labor activities, "flexibilization" is being promoted.

D. Elimination of Child Labor

CENTRAL THEME	National Labor Laws	International Standards / ILO Conventions	Principal Changes Last Five Years	Parallel Legislation	Obstacles to Enforcement	Examples of Non-Compliance
Elimination of Child Labor	Article 78 Political Constitution Labor Code	C16 Convention on Medical Examination of Young Persons (Sea), 1921. C90 Convention (revised) on the Night Work of Young Persons (Industry), 1948. C112 Convention on Minimum Age (Fishermen), 1959. C138 Convention on Minimum Age, 1973 C182 Convention on the Worst Forms of Child Labor, 1999.		The Code on Childhood and Adolescence, (1998).		

D.1. RELEVANT NATIONAL LABOR LAWS

D.1.1. Constitutional Laws

The constitutional law related to this topic is Mandatory Education (Article 78), which expressly provides that "Pre-school and general basic education are mandatory. These and diversified education in the public school system are free and paid for by the Nation."

D.1.2. Convention-Based Laws

In Costa Rican law, the following have been approved: Convention 16 on the Medical Examination of Young Persons (Sea), which regulates the obligation to provide medical exams for minors working in maritime activities; Convention 90 (which was not approved by the country), the Convention (revised) on the Night Work of Young Persons (Industry), which revises Convention 6 (which was not approved by the country), and prohibits minors from working night shifts; and Convention 112, on Minimum Age, which prohibits minors under the age of fifteen from working on fishing boats.

Convention 138 of the ILO, "the Minimum Age Convention," adopted by Costa Rica through Law No. 5594 of 1974, establishes the commitment of every State to abolish the use of child workers under the age of fifteen.

In addition, the Convention on the Rights of the Child was approved by Costa Rica through Law No. 7184 of 1990.

Finally, ILO Convention 18 on the Worst Forms of Child Labor was adopted in 2001 through Law No. 8122-A. Its objective is to eradicate the employment of children in any occupation.

D.1.3. National Statutes

The Labor Code refers to domestic work (the Articles mentioned in the chapter on Forced Labor and Mandatory Overtime), minimum wage, and weekly breaks.

The Code on Childhood and Adolescence (1998) is also relevant.

D.1.4. Other statutes of lesser importance

Regulation prohibiting children from caring for other children, the elderly, and the sick.

Regulation on labor contracts and occupational health conditions for adolescents. Executive Decree No. 29220-MTSS of October 30, 2000. Published in *La Gaceta* No. 7 of January 10, 2001.

D.2. PRINCIPAL CHANGES IN THE LAWS RELATED TO THE ELIMINATION OF CHILD LABOR IN THE LAST TEN YEARS.

D.2.1. Relevant Statutes

After the boom caused by the legal changes that followed the creation of the constitutional court in 1989, a series of judicial opinions of varied content were issued, which, combined with several International Conventions, facilitate a new legal system more connected to the international system for the defense of human rights.

It is in this context that the rules were handed down to eradicate child labor, and it is this purpose that stimulated the State's creation of conditions to visualize this problem that has become a scourge in many parts of the world.

Child labor is, according to the International Labor Organization, "the most important source of exploitation and child abuse in the world today." The ILO definition of child labor is work undertaken by children under the age of fifteen (except work done in the parents' house to help the family, as long as it still permits the children to attend school).

Several criteria help determine whether work is a form of exploitation:

- If it is undertaken by children who are too young (i.e. children younger than 6 who work in a factory);
- If the shifts are too long (i.e. children who work more than 8 hours per day);
- If the income is insufficient (i.e. children who work all week without earning anything or at best, a few dollars);

- If the conditions are dangerous (i.e. children who work in mines or quarries or with dangerous chemicals);
- If they are forced (i.e. children who work under force, obligated by their parents or third parties);
- If it endangers their psychic or moral health (i.e. children who work in prostitution).

UNICEF has developed a set of basic criteria to determine whether child labor is exploitative. It defines child labor as inappropriate if: they spend all their time exclusively working at too early an age; they spend too many hours working; the work causes undue physical, social or psychological stress; they work and live in the streets in poor conditions; the salary is inadequate; the child must assume too much responsibility; the work impeded access to education; the work undermines the dignity and self-esteem of the child (such as slavery and sexual exploitation); or impedes him or her from full social and psychological development.

D.2.2. The consequences of enforcement of this norm

The Ministry of Labor and Social Security has created an "Office of Attention to and Eradication of Child Labor" (OAETI-MTSS). This agency is responsible for promoting the elimination of all forms of child labor. It receives denunciations from varied sources: NGOs (The Council on Childhood and Adolescence of Pérez Zeledón, DNI, PANIAMOR, and ASODIL de Limón, among others); anonymous complaints (from neighbors and workers at places that employ child and adolescent workers); children and adolescent workers themselves; or from the Labor Inspection Office of the MTSS.

The OAETI-MTSS receives about 25 denunciations each month, but some months it receives as many as 100 or 1000. These higher statistics are due to the fact that some regions receive more reports from local NGOs regarding child labor use in those areas (Interview, Esmirna Sánchez). The majority of the denunciations are related to dangerous occupations, prohibited for children under the age of fifteen. Common child labor activities include vending and agricultural work.

The procedure for denunciations is the following:

1. The OAETI-MTSS receives denunciations from the aforementioned sources

2. The information of the denunciation is entered into the database. This information includes the date, name of the minor, address, cause, responsible party, etc.

3. The minor is visited and interviewed, according to a previously developed guide, about his or her life expectations, parents' names, reasons for working (usually poverty), family relations, etc.

4. A diagnostic study is undertaken, a report made, and recommendations issued. These are almost always done primarily for the awarding of scholarships and motivation so the child can continue formal education.

To execute these recommendations, the Office has an Inter-institutional Program of Immediate Attention. This program offers minors educational alternatives to motivate them to study. The children are generally interested by the idea of an open system and new opportunities. The Office also educates children about child labor and the implications of abandoning their studies.

In different situations, the child or adolescent is referred to different institutions, such as:

- MEP (formal education);
- IMAS (to support heads of family; grants subsidies and support for housing under a program called "Let's Overcome," which consists of subsidies for the mothers of children who have been working and want to study);
- PANI (for cases of intra-family violence and violence against the minor workers);
- Prosecutor for Sexual Crimes (in cases of sexual violence);
- CCSS (inclusion in the Non-tax paying bracket, or *Régimen No Contributivo*, for disabled elderly parents and quick medical attention);
- FONABE –National Scholarship Fund- (if the minor stops working, s/he is given a scholarship, which is revoked if they return to work);
- INA (vocational training, although this alliance has not been functional because the requirements are very high. A program for child and adolescent workers is being negotiated); and
- NGOs that give technical or vocational training in information systems, English, etc.

The Labor Inspection Office prevents employers from working minors long hours. It recommends that employers reduce hours for minors under the age of 15 and shift them to non-dangerous jobs, etc. Many times, the employer fires the minor before the visit of the Labor Inspector.

D.2.3. Perspectives on the future of these laws

The principal activities undertaken by child and adolescent workers are domestic service, construction, prostitution, seafood processing, and urban work. (ILO. Domestic Child Labor. 2002:27). In Costa Rica, more than 147,087 child and adolescent workers are included in the Economically Active Population (EAP); of these, 42,673 are female. There are 12,498 children and adolescents (including 10,906 females) involved in domestic work, which is equivalent to 8.5% of the child and adolescent EAP. (ILO. Domestic Child Labor. 2002). Legislation should focus on eradicating child labor in these areas.

There are two bills on the legislative agenda that are relevant to this topic. One is the Bill on the Prohibition of Sexual Exploitation and Compensated Sexual Activity, No. 14.108,

which, though archived (Archive No. 10813), attempted to issue standards prohibiting all sexual exploitation and create a body called the Institute for the Protection of the Sexually Exploited. It also would have established control mechanisms of commercial child sexual exploitation in hotels, motels, and taxis, and created misdemeanors and crimes for engaging in commercial prostitution, among other things.

The other bill that is still on the legislative agenda is called the Bill on the Promotion of Child Employment, No. 13,838. It promotes child employment by granting benefits to companies that incorporate youth into their contractual modalities. The Executive Branch convoked this bill in extraordinary sessions that began in December 2003.

D.3. OBSTACLES TO ENFORCEMENT OF THE LABOR LAWS RELATED TO THIS TOPIC:

D.4.1. List of obstacles

1. A CONSEQUENCE OF THE CRISIS DEMONSTRATED BY THE STATISTICS REPORTED ON CHILD LABOR COULD BE GENERAL ACCEPTANCE OF THE SITUATION. Bill No. 13,838 promotes child labor by granting benefits to employers who hire minors. In the context of "opening up" posed by the commercial and economic system, this kind of initiative could be counter-productive and promote a general acceptance of child labor.

2. THERE IS NO INSTITUTION IN A POSITION TO CONFRONT THE PROBLEM OF CHILD LABOR, NOR THAT CAN COORDINATE STATE ACTION TO ERRADICATE THE PROBLEM. Although the Ministry of Labor and Social Security has an "Office of Attention to and Eradication of Child Labor," it is believed that a lack of funding and a lack of political will could result in a loss of attention to the subject. The Office could attempt to coordinate efforts with other entities, but experience demonstrates that the transfer of duties from one entity to another is effective in only a few cases if there is no entity above them to monitor and control follow-up.

E. Elimination of Discrimination

CENTRAL THEME	National Labor Laws	International Standards / ILO Conventions	Principal Changes Last Five Years	Parallel Legislation	Obstacles to Enforcement
Elimination of Discrimination	Articles 33 and 48 of the Political Constitution. Articles 618 to 624 of the Labor Code.	C111 Convention on Discrimination (Employment and Occupation), 1958 Convention No. 100 ILO, Concerning Equal Remuneration of men and women for equal work. Convention on the Elimination of all forms of Discrimination Against Women, CEDAW. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem Do Para Convention), adopted by Law No. 7499 of May 2,1995. Convention 159 of the ILO, on Vocational Rehabilitation and Employment of Disabled People. Convention 169 of the ILO Concerning Indigenous and Tribal Persons in Independent Countries.	Law N° 8107 of 2001.	Law regulating advertisements that use the image of women. Law No. 5811 of October 10, 1975. Its most recent reform is contained in Law No.7801 of April 30, 1998. *La Gaceta* No. 94 of May 18,1998. Law on the Promotion of the Social Equality of Women, Law No. 7142 of March 8, 1990. This is the law that introduces the special protection of pregnant and breast-feeding women. Law of Breast-feeding Mothers. Law No. 7430 of September 7, 1994. Law N° 7125, of January 24,1989, Law of Life-long Pension for Persons Suffering from Profound Cerebral Palsy. Law N° 7600, of May 2, 1996, on Equality Opportunity for Disabled People. Law N° 7636, of October 14, 1996, on Pensions for Dependent Disabled People. Law on Indigenous Peoples, N° 6172 of 1978.	1. LACK OF PUBLIC POLICIES AGAINST DISCRIMINATION. 2. LACK OF PROPOSALS FROM THE LABOR SECTOR AGAINST DISCRIMINATION. 3. DISCRIMINATORY POLICIES ARE OPENLY TOLERATED BY THE SYSTEM. 4. REPRESSION OF LABOR RIGHTS BASED ON DISCRIMINATORY PRACTICES. 5. THE SYSTEM DOES NOT PROMOTE NEW LAWS TO CONTROL DISCRIMINATION OR THAT IMPLEMENT INTERNATIONAL CONVENTIONS WITH THAT OBJECTIVE. 6. THE INSUFFICIENCY OF THE WAYS OF ESTABLISHING PUNISHMENTS FOR DISCRIMINATION.

E.1. RELEVANT NATIONAL LABOR LAWS

The repudiation of discrimination is based on the principal that any doctrine of superiority based on racial discrimination is scientifically false, morally contemptible, and socially unjust and dangerous, and that nothing, in theory or practice, justifies racial or other discrimination.

In Costa Rica there is discrimination in labor relations based on gender, age, disabilities, sexual orientation, ethnicity, and other characteristics. The present analysis will discuss specific examples of some of these types of discrimination, with the objective of

highlighting some of the obstacles in the system that make it difficult to protect labor rights. The analysis centers on the limitations to representation in collective organizations, special situations that affect their right to work, or to be incorporated into the labor force, or to retain work.

E.1.2. Constitutional Laws

In Costa Rica, the constitutional foundation for protecting against discrimination is Article 33 of the Constitution, which provides that "all people are equal before the law and no discrimination may be practiced against the human dignity." This article underwent a very progressive change on May 27, 1999, when it was reformed by Law No. 7880, making it the most important constitutional Article in terms of human rights. Article 48 was also reformed in 1989 to provide that:

> "Every person has the recourse to habeas corpus to guarantee his or her liberty and personal integrity, and to the recourse of *amparo* to maintain and reestablish the enjoyment of other consecrated rights established in this Constitution, such as those fundamental rights established in international instruments on human rights, enforceable in the Republic..."
> (Constitutional Reform, Law No 7128 of August 18, 1989)

E.1.3. Convention-Based Laws

The Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, and that every person has all the rights and liberties contained in that declaration, with no exception, particularly for reasons of race, color, or national origin.

ILO Convention 111 Concerning Discrimination in Respect of Employment and Occupation, ratified by Law No. 2848 of October 26, 1961, and the Convention Concerning the Struggle against Discrimination in Education, approved by the UN Economic, Scientific and Cultural Organization in 1960, are some of the antecedents of the International Convention on the Elimination of all forms of Racial Discrimination.

The UN Declaration on the Elimination of all forms of Racial Discrimination, which was approved by Resolution 1904 of the XVIII General Assembly on November 20, 1963, established the need to quickly eliminate racial discrimination in all parts of the world, in all its forms and manifestations, and to foster understanding and respect for the dignity of the human person.

The International Convention on the Elimination of all forms of Racial Discrimination, which is integrated into the national legal system, provides in its first Article that:

> " ... 'Racial discrimination' is any distinction, exclusion, restriction or preference based on race, color, lineage, or national or ethnic origin that has the objective of or results in annulling or lessening the recognition, enjoyment or exercise, in conditions of equality, the fundamental human

rights and liberties in the political, economic, social, and cultural spheres or any other part of public life..."

Law 3170 of August 12, 1963, "Convention Concerning the struggle against Discrimination in the Educational System," defines "discrimination" as

> " ... Any distinction, exclusion, limitation or preference, founded on race, color, sex, language, religion, political opinion, or any other aspect, national or social origin, economic position or birth, that has the goal or effect of destroying or altering the equality of treatment in education, especially:
> a) Excluding a person or a group of people from access to different grades and kinds of education;
> b) Limiting to a lower level the education of a person or group of people;
> c) In reference to the provisions of Article 2 of this Convention, instituting or maintaining separate educational systems or establishments for certain people or groups; or
> d) Placing a person or group in a situation incompatible with human dignity."

From a labor rights perspective, the International Convention on the Elimination of all forms of Racial Discrimination provides in Article 5 that in conformity with the fundamental obligations stipulated in the Convention, States Parties commit to prohibiting and eliminating racial discrimination in all its forms and manifestations and to guaranteeing everyone's right to equality before the law, without distinction to race, color, national or ethnic origin, particularly the enjoyment of a series or rights, among which are:

> " e) economic, social and cultural rights, in particular:
> i) the right to work, to freely choose one's work, to equitable and satisfactory labor conditions, to protection from unemployment, to equal pay for equal work, and equitable and satisfactory remuneration;
> ii) the right to found and join unions;
> iii) ...
> iv) ...
> v) the right to education and professional training (...)".

With respect to the struggle against the discrimination against women, the following conventions are also important:

- Convention 100 of the ILO Concerning Equal Remuneration of men and women for equal work, adopted by Law No. 2561 of May 11, 1960.

- Convention on the Elimination of all forms of Discrimination Against Women, CEDAW, adopted by Law No. 6968.

- Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Belem Do Para Convention), adopted by Law No. 7499 of May 2,1995.

With respect to the struggle against the discrimination against persons with mental disabilities:

- Declaration on the Rights of the Mentally Retarded, proclaimed by the UN General Assembly on December 20, 1971 (Resolution 2856)(XXVI).

- Declaration on the Rights of the Handicapped, proclaimed by the UN General Assembly on December 9, 1975 (Resolution 3447)(XXX).

With respect to the struggle against discrimination against the disabled:

- Law No. 7219, of April 18, 1991, Approval of Convention 159 of the ILO, concerning Vocational Rehabilitation and Employment of Disabled.

With respect to the struggle against discrimination against indigenous people:

- ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, adopted by Law No. 7316 of 1992.

  Article 20 of this Convention provides that governments will adopt, in cooperation with indigenous peoples, measures to guarantee effective protection in contracting and labor conditions to workers belonging to indigenous groups. The second subsection of this article calls on governments to do everything in their power to avoid all discrimination between workers belonging to indigenous groups and other workers. They should pay special attention to the creation of adequate services of labor inspection in regions where workers belonging to indigenous groups work in non-salaried activities, with the goal of assuring compliance with the laws of this section of the present Convention.

E.1.4. National Statutes

Law No. 8107 is a generic law, related to all forms of discrimination. It introduced a new Title XI to the Labor Code, which is a unique chapter on the Prohibition of Discrimination.

The law against Sexual Harassment in the Workplace and Education is also important respect to the struggle against the discrimination against women. (Law No. 7476 of February 3, 1995, Published in *La Gaceta* No. 45 on March 3, 1995.)

E.1.5. Other statutes of lesser importance

With respect to the struggle against the discrimination against women, the following statutes are also relevant:

- Regulation of illness and maternity insurance. Costa Rican Social Security Fund. Approved by the Board of Directors, February 4, 1952. Articles 14, 15, 35, and 40-63 refer to the conditions of maternity of the insured.

- Decree on Night Work of Women. Law No. 11 of May 20, 1966.

E.2. PRINCIPAL CHANGES IN THE LABOR LAWS RELATED TO THE ELIMINATION OF DISCRIMINATION IN THE LAST TEN YEARS.

E.2.1. Relevant laws

As discussed in the section on international laws, national legal standards have also advanced during this time period. Perhaps the most impressive legal advance has been the proliferation of laws to achieve balance in women's political participation. The Law on the Promotion of the Social Equality of Women was passed in 1990.

Fewer laws have been passed regarding disabled and older adults.

Meanwhile, no laws have been passed specifically protecting the rights of indigenous people, persons with mental disabilities, or people who suffer from other kinds of discrimination, especially not in terms of labor laws.

E.2.2. The origin of these laws

The importance of international law in Costa Rican law is one of the factors that explain the issuance of laws or proposals related to some of these discriminated sectors.

This is because the groups that are frequently the victims of discrimination generally lack lack political organization; in recent Costa Rican history, there have been few sustained movements to defend the rights of these groups. The labor movement has also not been active in the struggle for recognition of these rights (with some exception in the case of women), despite the statistics demonstrating that a significant number of people experience such discrimination. One report states that more than 311,000 Costa Ricans have some type of physical or mental disability (Office of the First Lady, Lorena Clare de Rodriguez. Annual Report, May 1999-May 2000, p. 19).

The struggle that indigenous peoples have been carrying out for almost ten years, seeking a law that will guarantee them autonomy and implement ILO Convention 169, does not specifically deal with labor rights but may nevertheless have impacts in that field. Political and economic sectors with interests in indigenous lands have resisted at all costs the issuance of the law advocated by indigenous groups. This law has been on the legislative agenda for ten years and was archived at one point.

The system tolerates a series of practices that encourage discrimination. One of the most public and obvious examples are the job announcements published in newspapers. These job postings frequently discriminate on the basis of age, with clauses like "We need people

between 25 and 35 years old, or who do not exceed that age." There is no way to eradicate this practice because there are no direct sanctions.

E.2.3. Consequences of enforcement of these laws for the elimination of discrimination

Discrimination can be based on any distinction, exclusion or preference based on race, color, sex, religion, political opinion, national or social origin, that has the effect of annulling or altering the equality of opportunities or treatment in employment and occupation. (ILO Convention 111. Convention on Discrimination (Employment and Occupation), 1958). There are two important matters related to employment discrimination, one of which is an anti-corruption law and the other is the use of mechanisms of flexibility to incorporate into the labor force certain excluded sectors.

Anti-corruption law No. 8107 introduced a new Title XI to the Labor Code, containing only one chapter relating to the Prohibition on Discrimination. Despite the fact that the article is a strong regulation of the topic, several limitations have been identified. The basis of this chapter is Article 618, which says: "Prohibit all discrimination in the workplace for reasons of age, ethnicity, gender or religion." This text is insufficient in the enumeration of the different kinds of discrimination, as it fails to mention some of the most problematic ones, such as sexual orientation, disability or illness (such as the effects caused by AIDS). This article is also criticized for only regulating discrimination in the workplace. All discrimination in any phase and circumstance of employment should be prohibited.

The other articles of the Code refer in their precept 619 to the principle that all workers employed in similar work shall enjoy the same rights, equal work shifts, and equal remuneration. Article 620 protects the phase of the conclusion of an employment relationship. Article 621 protects against age discrimination. Article 622, perhaps different from the others in the same chapter, covers all types of discrimination, providing that "all people, with no discrimination, shall enjoy the same opportunities to obtain employment and shall be considered eligible in their line of specialty, when they fulfill the formal requirements solicited by the employer or contracting party." Article 623 provides the possibility of denunciations for all discrimination. In the section on punishment, Article 624 prohibits many types of discriminatory conduct; however, punishment was exclusively established for firing, leaving the other forms of noncompliance without a remedy. It mentions that the worker shall be reinstated and compensated for any discriminatory termination, but it does not provide for the case where the worker does not wish to be reinstated, nor a procedure to be used, such as the one the Labor Code established for pregnant workers.

"Policies of flexibility" refer to State policies promoting flexible labor shifts to incorporate older adults into the labor force. This same initiative has been promoted for young people as well, through the granting of benefits to businesses that incorporate young people into their contractual modalities, as referred to in the Bill on the Promotion of Youth Employment (Record No. 13,818). At the time of this study, that bill is one of the things the Executive Branch has asked the Congress to analyze in extraordinary sessions for 2003.

One concrete example of discrimination in Costa Rica concerns the denial of fundamental labor rights for Panamanian indigenous persons working in Costa Rica.

On the border between Costa Rica and Panama, there are indigenous communities with a real "inter-border" presence. One such community is that of the Guaymís, who are identified in the vernacular language as "Ngobes". The Ngobes' indigenous territories are recognized in Costa Rica (by indigenous law 6172 from 1977, Article 1) as being located in the extreme southeast part of the country, while the communities on the Panamanian side of the border are located in the provinces of Veraguas, Chiriquí, and Bocas del Toro (the last two of these are adjacent to Costa Rica, and located practically in the southeast point of Costa Rica). The many similarities (dress, social and religious practices, language) between the Costa Rican and Panamanian communities indicate that they are the same group, even though they are citizens of different countries (Guevara and Chacon, 121.131).

The indigenous Guaymies from Panama have been working for many years in the Sixaola and Talamanca zones (located in the southeast part of Costa Rica) for banana plantations Talamanca and Zavala, which produce for the transnational Chiquita. These workers suffer the most degrading working conditions in the country. The working hours are extremely long, the salaries are below minimum wage, and payments of salaries and benefits are never on time (UTRAL report signed by Santos Martinez Martinez, Secretary General. September 2003). As a result, the workers have presented a collective complaint before the labor court in Limón. Given that all of these workers are foreigners, whenever they try to organize to demand fair working conditions, the companies threaten to report their illegal immigration status (UTRAL report; interview with Gilberth Bermudez).

According to Article 60 of the Constitution, the leaders of these indigenous workers cannot be union leaders because they are foreigners. This prevents most of the workers at these plantations from using unions to defend rights.

Ironically, one ILO Convention that does not specifically refer to the regulation of working conditions (ILO Convention 169 on Indigenous and Tribal Communities, approved by law 7316 in 1992) establishes in Part III that special circumstances should protect the working conditions of indigenous persons. It says that governments should do everything in their power to avoid any discrimination of indigenous workers and other workers, especially in terms of the right to freedom of association, the right to freely dedicate oneself to all legal union activities, and the right to make collective bargaining agreements with their employers or employers' organizations. It also says that the adopted measures should guarantee that indigenous workers, including seasonal workers, immigrants employed in agriculture or other

activities, and workers employed by subcontractors, enjoy the protection of the law that applies to other workers in the same sectors. Finally, part 4 calls for special attention to the creation of adequate labor inspection services in regions where workers belong to indigenous communities.

Section VIII of the International Instrument, in the section titled "Contacts and cooperation over borders" (Article 32) establishes that governments should take appropriate measures, including international accords, to facilitate contacts and cooperation between indigenous and tribal communities across national borders, including activities in the economic, social, cultural, spiritual, and environmental spheres.

Clearly, the situation of the Guaymís community, which maintains strong ethnic ties, makes one think of the need for equal protection. The border agreement between Costa Rica and Panama dates from only 1941, making it possible that many of those workers could have been born in what is now Costa Rican territory, or could be the offspring of people born in Costa Rica, which would make them nationals (according to Article 13 of the Constitution). Nevertheless, they are not allowed to lead workers' organizations because they are considered to be "foreigners". Using the Constitutional principle "pro homine" that says that the law should be interpreted and applied in the manner most favorable to the human being (Hernandez, 44), the history of Guaymís, and the protection afforded them by the international convention cited above (Article 1.b), which considers indigenous persons to be "those who live in the country or a geographical region that belonged to the country at the time of the conquest or colonization or the establishment of the current state borders, and who, regardless of their legal situation, conserve all or part of their own social, economic, cultural, and political institutions...", it is clear that these factors should allow the protection of these indigenous people as nationals.

It is not logical for the Constitution to prohibit foreigners from being union leaders. The case of the indigenous workers on the banana plantations is a sad case that demonstrates the problem of social exclusion (scarcity of opportunities and access to basic services, labor markets, credit, adequate infrastructure, and the judicial system). In Latin America and the Caribbean, being indigenous, black, female, or disabled increases one's chances of being socially excluded (Interamerican Development Bank 2003).

E.2.4. Perspectives on the future of these laws

The bills before the Legislative Assembly related to these sectors are the following:

- With respect to the struggle against discrimination against women:

There is a bill on the Integration of Women in Leadership of Associations and Unions, which would modify Article 345 of the Labor Code (Record No. 15,160) by requiring them to have a minimum of 40 percent women among their membership.

- With respect to the struggle against discrimination against the disabled:

There is a bill to incorporate into the labor force disabled people, in the context of protection of the family. The bill proposes a constitutional reform to Article 51, to include, in addition to mothers and children, the disabled, the elderly and the invalid. (Record No. 14,150). The goal of this reform is not labor-related, but as it entails a reform of the constitutional framework, it should (if approved) have consequences for labor.

- With respect to the struggle against discrimination against older adults:

A law against age-based employment discrimination is being sought to regulate work opportunities for older adults and to prohibit employers, in the hiring process, from demanding requirements that discriminate for reasons of a maximum age, gender, ethnicity or confessionality (Record No. 13,429).

- With respect to the struggle against discrimination against indigenous people:

Bill No. 14,352, or the "Law of Autonomous Development of Indigenous Peoples," provides for the support of indigenous communities' processes to facilitate their development according to their own values. As to labor rights, it would attempt to adjust their employment relationships according to Article 20 of ILO Convention 169.

- Basic conclusions on the general situation of discrimination:

From an analysis of the law and its relation to reality, employment discrimination manifests itself in the following forms:

a) There is no guarantee of access to employment, including jobs requiring skilled labor and measures of promotion and advancement for those who are discriminated against;
b) It has been detected that in some cases, "equal pay for equal work" is not applied to women;
c) The discriminated populations, like many others who do not fit into these specific categories (though for that reason they are part of them), do not receive adequate medical and social assistance, safety and hygiene in the workplace, nor all of the benefits of social security and other benefits derived from labor, such as housing;
d) For these reasons, these populations either do not have, or do not sufficiently exercise, the right of association, the right to dedicate oneself freely to union activities for legal ends, and the right to execute collective bargaining agreements with employers or with employers' associations. In addition, workers' organizations often do not have specific programs to implement the principle of non-discrimination.

E.3. PARALLEL NON-LABOR LEGISLATION:

E.3.1. General reference to these laws

- With respect to the struggle against gender-based discrimination:

Law regulating advertisements using images of women. Law No. 5811 of October 10, 1975. Its last reform is contained in Law No. 7801 of April 30, 1998. *La Gaceta* No. 94 of May 18, 1998.

Law promoting the Social Equality of Women, Law No. 7142 of March 8, 1990. This is the law that introduces special protection for pregnant and breast-feeding women.

Law on Nursing Mothers. Law No. 7430 of September 7, 1994.

In the "Report of the State of Costa Rica on Compliance with the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)" (2002 Publication of the National Institute on Women, INAMU), 29 laws and at least 12 Executive Decrees are reported that are related to discrimination against women.

- With respect to the struggle against discrimination against disabled:

Life-long Pensions for People Suffering from Profound Cerebral Palsy; Law No. 7125, of January 24, 1989.

Equal Opportunities for Handicapped People. Law No. 7600, of May 2, 1996.

Pension for Dependent Handicapped People. Law No. 7636, of October 14, 1996.

- With respect to the struggle against discrimination against indigenous peoples:

Law on Indigenous People, N°6172 of 1978.

E.3.2. Perspectives on the enforcement of these laws and how they affect compliance with the elimination of discrimination

- With respect to the struggle against gender-based discrimination:

Integration of women into the leadership of associations and unions (Labor Code Article 345) (Record N°15.160), requiring 40 percent of their membership to be women.

Subsection (e) of Article 345 of the Labor Code contains an odious discrimination that permits foreign men married to Costa Rican women, but not foreign women married to Costa Rican men, to join the Boards of unions. This subsection should be reformed to read "e)The mode of election of the Board of Directors, whose members shall be Costa Rican or [male or female] foreigners married to Costa Rican [men or women]; and with at least five years of permanent residence in the country; and in every case, of legal age, in accordance

with common law. For the purposes of this subsection, Central Americans shall be equivalent to Costa Ricans."

E.4. OBSTACLES TO ENFORCEMENT OF THE LABOR LAWS RELATED TO THE ELIMINATION OF DISCRIMINATION:

From the many situations that have been discussed thus far, the following obstacles can be identified:

1. LACK OF PUBLIC POLICIES AGAINST DISCRIMINATION. The Costa Rican legal system has not found mechanisms that effectively systematize equal treatment in favor of the discriminated populations.

2. LACK OF PROPOSALS FROM THE LABOR SECTOR TO COMBAT DISCRIMINATION. The labor sector is not promoting or carrying out campaigns to eradicate discriminatory practices.

3. THE SYSTEM OPENLY TOLERATES DISCRIMINATORY PRACTICES. As discussed above, one of the most open and public examples is the case of job announcements in the daily newspapers that discriminate on the basis of age.

4. REPRESSION OF LABOR RIGHTS BASED ON DISCRIMINATORY PRACTICES. In the recent history of the country, there have not been sustained movements to claim labor rights. For this reason it is possible that many repressive practices against workers are based on discrimination, such as the case of pregnant workers.

5. THE SYSTEM DOES NOT DECIDEDLY PROMOTE NEW LAWS TO FIGHT AGAINST DISCRIMINATION OR TO IMPLEMENT INTERNATIONAL CONVENTIONS WITH THAT GOAL. A specific case is that of the indigenous peoples, who have been trying for almost ten years to pass a law guaranteeing them autonomy and implementing ILO Convention 169.

6. THE INSUFFICIENCY OF THE PUNISHMENTS AGAINST DISCRIMINATION. In the section on punishments stipulated in the Labor Code (Article 624), which prohibits many kinds of discriminatory conduct, a penalty is only established for discriminatory termination, leaving without remedy other violations of labor rights based on discrimination. And in the case of the potential reinstatement of a worker who wishes not to be reinstated, the law does not provide an alternative remedy or indicate the procedure to be used.

F. DECENT WORKING CONDITIONS:

F.1. PAYMENT OF WAGES

Salary and wages (or, remuneration or earnings) are owed by an employer to a worker by virtue of a written or oral labor contract, for work that the latter has done or will do or for services rendered or that shall be rendered. Salaries and wages can be set by agreement or by national legislation. The two fundamental principles that characterize remuneration are equality and opportunity, meaning that the salary shall always be equal for equal work done in identical conditions of efficiency. Also, payment may not be delayed, except in extraordinary and qualified circumstances. The concept of a salary is also tied to the honorableness of human relations, which is why people talk about a "dignified salary," which is the aspiration to give well being to the worker and his or her family.

Based on the above, one can understand that in a material, moral, and cultural order, any salary, even the minimum salary, should be enough to cover the basic needs of the worker and his or her family.

There are some elements to determine the levels that should be taken into account for the minimum wage:

- The basic consumption needs of workers and their families, the cost of living, social security benefits, and the standard of living compared to other social groups;
- Economic factors, like the requirements of economic development, productivity levels, and the appropriateness of reaching and maintaining a high level of employment;
- Moral and cultural factors: a salary that permits a minimum of relaxation and family recreation.

1. RELEVANT NATIONAL LABOR LAWS

1.1. Constitutional laws

Article 57 of the Constitution establishes the principle of the salary, and establishes the right of every worker to a minimum wage, set periodically, that provides dignified existence and well being. The article ends with the principle that "the salary will be equal for equal work done with identical efficiency." The article also leaves it to the law to determine how to set minimum wages, for which it suggests the creation of a technical body.

1.2. Convention-based laws

Several international instruments of the ILO have been approved by Costa Rica and adopted into law. Among these are:

Convention 26 on the Creation of Minimum Wage-Fixing Machinery, which establishes methods of fixing industry wages.

Convention 95 on the Protection of Wages, which determines the manners, methods, and circumstances of salary payment. Decree No. 11324-TSS, Art. 2.

Convention 99 on the Minimum Wage-Fixing (Agriculture), which establishes the methods to set minimum wages for workers in agricultural companies, authorizing (partial) payment in kind (Art. 2).

Convention 100 on Equal Remuneration, which establishes the principle of equal pay for men and women for equal work.

Convention 131 on Minimum Wage-Fixing, which complements Conventions 26, 95, 99 and 100 and assures the protection against unduly low remuneration. It gives force of law to minimum wages.

1.3. National Statutes

The Law on Salaries in Public Administration. Law No. 2166 of October 9, 1957, published October 15, 1957 in accordance with subsection (b), Article 48 of Chapter X of the Statute of Civil Service (Law No. 1581 of May 30, 1953) and a tax increase to finance it.

The Law of Christmas Bonuses in Private Companies, or Additional Pay. Law No. 2412 of October 23, 1959, published in Law Gaceta No. 244 of October 29, 2959. The reforms are law NO. 3929 of August 8, 1967, Law No. 2975 of December 20, 1961, and law No. 2636 of October 3, 1960.

The Law on Additional Pay in Public Services. Law No. 1835 of December 11, 1954. The reforms are law No. 4271 of December 16, 1968 and law No. 3929 of August 8, 1967.

The Law on Additional Pay of Servants in Autonomous Institutions. Law No. 1981 of November 9, 1955. The reforms are Law No. 4271 of December 16, 1968 and Law No. 2110 of April 2, 1957.

The Law on the Creation of the Right to Tips for Restaurant Workers. Law No. 4946 of February 3, 1972.

Chapter VI of the Labor Code addresses "Salary and measures to protect it." The Articles addressing this topic are presented in the table below, as are some obstacles that have been identified.

ARTICLE OF THE CODE.	OBSTACLES OBSERVED.
ARTICLE 162- Salary or payment is the compensation an employer owes the worker by virtue of a labor contract.	A decision of the Second Chambers of the Court (N°178-98) opened the opportunity to debate whether repeated payment to a liberal

	professional under certain conditions should be perceived as salary.
ARTICLE 163- Salary shall be stipulated liberally, but may not be below the set minimum wage, in accordance with the provisions of this law.	By its nature (because of its composition), the National Salary Council generally determines minimum wages that are far below the "cost of living" because of agreements between the government and employers.
ARTICLE 164- Salary shall be paid by time unit (monthly, twice monthly, weekly, or by day or hour); by piece, work or job; in money; in money and in kind; and by sharing in the employer's profits or sales.	
ARTICLE 165- Salary shall be paid in legal currency when it is provided that it will be paid in money. It is absolutely prohibited to pay salaries in merchandise, vouchers, chips, or coupons or any representative substitute for money. The legal punishments shall apply in maximum when the pay orders are only exchangeable for merchandise from determined establishments. Coffee farms or plantations are exempted from the previous prohibition where, during harvest time, it is the custom to give the workers vouchers, as long as their convention for money is necessarily verified that week. *(Reformed by Law No. 31 of November 24,1943)*	The means of payment in the last part of the Article are considered to undermine the rights of the worker.
ARTICLE 166- By "salary in kind" is meant only that the worker or his or her family receives food, room, clothing and other articles of immediate personal use. In the fields of agriculture or cattle work, "salary in kind" shall also include land that the employer cedes to the worker for him to cultivate and harvest. For legal purposes, where the value of remuneration in kind is not determined in each concrete case, it will be assumed to represent fifty percent of the salary that the worker should collect in money. Regardless of the provisions of the first three paragraphs, undoubtedly free supplies that the employer grants the worker shall not be counted as payment in kind, and cannot therefore be deducted from the salary in money, nor taken into account for the determination of the minimum wage. *(Reformed by Law No. 31 of November 24,1943)*	The last part of the Article provides that free supplies may not be considered "payment in kind" has led to many abusive practices by employers, who, in supposedly gracious acts, began to transform into "stipends" what they used to give in kind, so as to avoid payment of those sums as salary at the end of the labor relationship.
ARTICLE 167.- To determine the salary for each class of work, the quantity and quality of the work shall be take into account. Equal work, performed in a position, shift, and under equal conditions of efficiency, shall have equal pay, including payments for the daily quota, when the perceptions, services such as housing and other goods given to a worker in exchange for his ordinary labor. *(Reformed by Law No.25 of November 17,1944).* Differences for reasons of age, sex or nationality may not be established.	In practice, certain positions in which mainly women work fall within the lowest salary scale. It is believed that if men occupied those jobs, the remuneration would be higher, since women carry "negative" factors, such as the possibility of pregnancy, breast-feeding period, and the lack of availability for overtime because of the demands of housework.
ARTICLE 168.- The parties shall set the payment cycle, but said cycle shall never be greater than fifteen days for manual workers, or a month for intellectual workers and domestic servants. If the salary consists of sharing in the employer's profits or sales, a twice-monthly or monthly	

sum shall be allocated to the worker based on his or her needs and the amount he or she is likely to receive from the profit-sharing arrangement. The definitive liquidation of his or her interest shall be done at least once per year.	
ARTICLE 169.- Except for the provisions of the previous article, salaries shall be liquidated completely in each payment period. For these purposes and for the computation of all compensations granted by this Code, "complete salary" shall mean the earnings of ordinary and extraordinary shifts.	
ARTICULO 170.- Except where the contrary is provided by a written agreement, payments shall be made where the workers render their services. They may be paid during work or immediately after it ends, but not in centers of vice or recreation sites, places that sell merchandise of alcoholic beverages, if the workers are not employees of the establishment where payment is made.	In the banana regions where there are Commissaries in which workers purchase articles, there have been cases where the company cancels the existing debt of the workers and pays them only any remaining sum as salary.
ARTICLE 171.- After the deductions and retentions authorized by this Code and its supplementary laws are made, salary shall be paid directly to the worker or the person of his or her family that the worker indicates in writing.	
ARTICLE 172.- Those salaries are not seizable which do not exceed what is determined to be the lowest monthly salary established by the decree on minimum wage valid at the time the seizure is announced. If the lowest salary was for a single ordinary shift, it shall be multiplied by 26 to obtain the monthly salary. Those salaries which exceed this limit are seizable up to one-eighths part of the portion that is up to three times that quantity and one-fourth of the rest. However, all salaries are seizable up to fifty percent as a food pension. By salary shall be understood a liquid sum corresponding to the worker who earns it, once the mandatory quotas to be paid to the worker by law are deducted. For the purposes of this article, daily stipends are considered salary. Although attributable to different causes, it cannot be seized with respect to the same salary only the part seizable in accordance with the provisions herein. In case of a simulation of a seizure, one shall be able to demonstrate the same in an incident created to the effect within the trial in which said seizure will be adduced or opposed. The tribunals will evaluate the proof in conscience (*prueba en conciencia*) without subjection to the common law on the matter. If the simulation is proved, the seizure shall be revoked and the sums received shall be returned. *(So reformed by Article 2 of Law No. 6159 of November 25, 1977. Reproduced by mistake in the original*	

in Alcance 78 to "La Gaceta" No. 89 of May 10, 1978).	
ARTICLE 173.- The advance that the employer makes to the worker to induce him or her to accept the job shall be limited in amount to one-fourth of the monthly salary. When it exceeds the set limit, it will be legally unchargeable and may not be recuperated later, compensating it with the amount of the worker's debt. The debts the worker has with the employer from advances or payments made in excess shall be paid off gradually throughout the duration of the contract in a minimum of four payment periods, and interest shall not accrue. It is understood that upon terminating the contract, the employer may undertake a definitive liquidation. *(So reformed by Law No. 3630 of December 16, 1965).*	
ARTICLE 174.- Salaries shall only be ceded, sold, or burdened in favor of third persons, in the proportion in which they are seizable. Legal operations made with cooperatives or legally constituted credit institutions are exempt, to be set by their own principles. *(Reformed by Law No.4418 of September 22,1969).*	
ARTICLE 175- In the cases referred to in the second clause of Article 33, the privilege here established for credits for earned salaries shall be made extensive, without limitation for the sum or time worked, or whether the worker continues to work there or not.	
ARTICLE 176- Every employer who permanently employs ten or more workers shall maintain a book of salaries authorized and stamped by the Office of Salaries of the Ministry of Labor and Social Security responsible for supplying models and norms for its printing. Every employer who permanently employs three or more workers but fewer than ten, is obligated to maintain payrolls in conformity with the models adopted by the Costa Rican Social Security Fund or the National Institute of Insurance. *(Reformed by Law No. 3372 of August 6, 1964)*	In practice, salary payrolls are not often used and on very rare occasions they are determined to impose sanctions on the employer.

Chapter V of the Labor Code establishes the rules concerning the Minimum Wage. The table that follows indicates some obstacles to these laws.

ARTICLE OF THE CODE.	OBSTACLES OBSERVED.
ARTICLE 177- Every worker has the right to earn a minimum salary that covers the normal needs of his home in material, moral, and cultural terms. The minimum wage shall be set periodically, attending to the modalities of each job, the particular conditions of each region and each intellectual, industrial, commercial, cattle or agricultural activity.	This article is contradicted by the statistics on jobs in the informal economy that increase each day. There also exist several internal administrative mechanisms within the companies to circumvent this right of the workers.
ARTICLE 178- The minimum wages set according to the law shall govern from the date of validity of the respective Decree for all workers, with the exception of those who serve the State, its Institutions, and Municipal Corporations and whose remuneration is specifically determined by the public budget. However, these shall make annually, upon	The mechanisms of definition of the salary increases generally are not participative, especially in the State sector and in the majority of cases, the workers complain if they are not in accordance with the cost of living.

the elaboration of the entities' respective ordinary budgets, accrued salary inferior to the minimum that corresponds to it. *(Reformed by Law No. 3372 of August 6, 1964)*	
ARTICLE 191.- The determination of the minimum wage automatically modifies the labor contracts that stipulated salaries lower than the new minimum wage, and does not imply the renunciation of the worker nor the abandonment of the employer or pre-existing agreements favorable to the worker relative to a higher compensation, to housing, land to cultivate, work tools, medical services, provision of medicines, hospitalization and other similar benefits.	

1.4. Other statutes of lesser importance

Minimum wages in the private sector are set by Executive Decrees. Some of these, now reformed in part by later decrees, are complemented by new ones with updated, current information. The following are examples of those issued from 1999 until 2003:

Decree No. 28083-H of August 31, 1999, published in *Alcance* No. 68 to *La Gaceta* No. 179 of September 14, 1999.

Decree on minimum wages of January 2001, which is Decree No. 29150-MTSS of November 23, 2000, published in La Gaceta No. 240 of December 14, 2000. Definition of titles and occupational categories. Published in *La Gaceta*, No. 233 of December 5, 2000.

Decree on Minimum Wages, second semester 2003. Executive Decree No. 30863-MTSS of November 20, 2002, published in *La Gaceta* No. 234 of December 4, 2002.

Salaries for the public sector are provided by means of directives. The following are examples of those:

General Directive of Salary and Employment Policies and Classification of Occupations for 2000 for the Ministries, and other organs and public entities covered by the Budgetary Authority.

General Directives of Salary Policies and Regulations for Matters of Employment and Classification of Occupations for 2001 for the Ministries and other organs and public entities covered by the Budgetary Authority. Decree No. 28693-H of May 24, 2000, published in *La Gaceta* No. 116 of June 16, 2000.

The body created by law with a foundation in Article 57 of the Constitution is regulated by a regulation:

Regulation of the National Salaries Council No. 25619-MTSS of September 16, 1996, published in *La Gaceta* No. 229 of November 28, 1996. The reforms are Executive Decree No. 29630-MTSS of June 21, 2001, which appears in *La Gaceta* No. 131 of July 9, 2001,

and in Decree No. 27306-MTSS of August 12, 1998, in *La Gaceta* No. 185 of September 23, 1998, and in Executive Decree No. 25922-MTSS. *La Gaceta* No. 68 of April 9, 1997.

2. PRINCIPAL CHANGES TO THE LAWS RELATED TO THE PAYMENT OF WAGES IN THE LAST TEN YEARS.

2.1. Relevant Statutes

The salary system is characterized by the issuance of many laws over a long period of time. The most important are those that modify substantial rights. However, in light of the fact that a radical change would imply a contravention of the Political Constitution (Article 57), they do not happen within the system.

Regardless, it can be said that the most important changes occur outside of the salary-fixing machinery. For example, the methodologies used to determine the cost of living or inflation directly impact the determination of the minimum wage.

2.2. The origin of these laws

These laws arise from the constitutional principle of fixing minimum wages, which are determined by the National Council on Salaries and other public institutions related to those of the public sector.

2.3. The consequences of applying these laws for the payment of wages

Aside from objections to the methods used to determine fair wages, there are two other factors that affect the imbalances that characterize the wage determinations. The first has to do with the composition of the National Council on Salaries, which is the body charged with fixing wages. Despite the fact that the Council has a tripartite representation, the government and employers ally their interests against the representatives of the workers. Second, the idea of "flexibility" has been influencing the case law related to the definition of "salary," which at heart is the definition of the labor relationship, and it has become more and more perverted.

This "flexibilization" can be seen in two specific cases. One is the Second Chamber of the Supreme Court of Justice (No. 178-98) decision in which the constant remuneration that an entity paid a professional who attended to that entity's patients was denied the character of "salary," because the service to the business was carried out by the professional in his own office. As this entity is a public institution responsible for rendering a monopolistic public service (labor risk insurance), it is considered that the remuneration did constitute a salary because of the absolute subjection that function implicated. However, with this case a space opened to consider that not all remunerations arising out of a relation of dependence are salaries (and do not constitute, therefore, a labor relationship).

The Second Chambers (which is the court of last instance in labor matters) also examined another case, and confirmed the line drawn by the previously mentioned judgment. In this second case, a business contested the opinion of the state agency responsible for social

security (the Costa Rican Social Security Fund) that the relationship of the company to its sales agents was salaried relationship. This judgment N°996-2000 cites an important criterion of a judge of first instance, who stated that:

> "... The case presumes an unfavorable situation for the renderer of services with respect to the contractor, that carries with it the imposition of clauses and rulings such as that handed down (referring to the case described), that is, to subtract the labor character from a contract when in reality it has that character and should grant labor rights to the worker; in this case, the "sales agents," who are affected by unemployment and a high level of the cost of living, reaccept the contractor's invitation to obtain an income, be it their primary source of income or an additional source; and attempts to exclude them from any protection of the labor laws..."

Employers used this as the basis for appealing the judgment of the first instance, which declared that the sum was a salary, arguing that the decision was based on political, not legal, reasoning.

The dissenting opinion of this 2000 ruling says that in the opinion of the judges that did not support the thesis that the relationship of the company to its "sales agents" was not a labor relationship, it does constitute a labor relationship because of the subordination of the agents, as they had to follow the company's directives and use its materials.

2.4. Perspectives on the future of these laws

Reform to the law on the fixing of minimum wages and the Creation of the National Council on Salaries, (Law No. 832 of November 4, 1949. Record No. 14,965. Social Commission. No decision.) It is intended to make uniform the salary system of the members of the Supreme Powers, who constitute the highest pay scale in the regimen of public employment. The bill proposes to grant to the National Council on Salaries the power to uniformly fix the salaries of certain members of the Supreme Powers. It imposes a maximum limit for the salary of these functionaries.

Law on Scholastic Salaries. (Record No. 15,171. Social Commissions. No opinion.) Mandatory for all employers to make salary adjustments to workers (or scholastic salary).

3. PARALLEL NON-LABOR LEGISLATION:

3.1. General reference to these laws

The Convention on the Elimination of all forms of Discrimination Against Women, CEDAW, is one of these parallel laws. In Article 11.1, this Convention provides that the States Parties shall adopt all appropriate measures to eliminate discrimination against women in employment, in order to ensure that women enjoy equality with men, the same rights, especially the right to equal remuneration and benefits, equality in treatment for work of equal value, and equality of treatment with respect to the evaluation of the quality of the work (subsection d).

3.2. Relevance of these laws to the payment of wages

The Convention on the Elimination of Discrimination Against Women is not always complied with; women do not always find themselves in working conditions that give them equal conditions, rights, pay, benefits, and treatment in comparison with the male workers.

In May 2003 some supposed failures of the information system left thousands of teachers in the public sector without a salary. This case was related to problems with the payment of the salary, rather than problems with its conception. No specific law regulated this situation, aside from the law on contesting administrative acts (of omission, in this case).

4. OBSTACLES TO THE ENFORCEMENT OF THE LABOR LAWS RELATED TO THE PAYMENT OF WAGES:

4.1. List of obstacles

1. THE CASE LAW HAS BECOME MORE AND MORE FLEXIBLE IN ITS CONCEPTUALIZATION OF WHAT CONSTITUTES A SALARY. The concept of "flexibility" has been influencing the case law related to the definition of "salary," which, at heart, is the definition of the labor relationship, and which has become more and more perverted. Based on the decision of the Second Chambers of the Court (N°178-98), the opportunity to discuss whether repeated payment under certain conditions to a liberal professional was a salary.

2. THE SALARY-FIXING BODY POSES SERIOUS CHALLENGES FOR THE DETERMINATION OF "FAIR WAGES." Due to its composition, the National Council on Salaries usually fixes wages far below the level of the cost of living because of agreements between the government and employers. Despite the fact that it has a tripartite representation, the government and employers ally their interests against the representatives of the workers.

3. THE DETERMINATION OF SALARY IN KIND IS A SERIOUS PROBLEM THAT CAN HARM THE WORKING CLASS. The last part of the Article provides that free supplies may not be considered "payment in kind" has led to many abusive practices by employers, who, in supposedly gracious acts, began to transform into "stipends" what they used to give in kind, so as to avoid payment of those sums as salary at the end of the labor relationship.

4. CASES HAVE BEEN REPORTED WHERE THE PRINCIPAL OF EQUAL PAY HAS BEEN VIOLATED. In practice, certain positions in which mainly women work fall within the lowest salary scale. It is believed that if men occupied those jobs, the remuneration would be higher, since women carry "negative" factors, such as the possibility of pregnancy, breast-feeding period, and the lack of availability for overtime because of the demands of housework.

5. CASES HAVE BEEN REPORTED ON VIOLATIONS OF THE PRINCIPLE OF THE

OPPORTUNITY TO EARN A SALARY. Such is the case about the delay in payment to the teachers.

6. TRANSPARENT MECHANISMS DO NOT EXIST IN THE DEBATE ON TECHNICAL CONDITIONS THAT SHOULD GOVERN THE WAGE-FIXING MACHINERY. The mechanisms to define wage increases are generally not participative. Especially in the public sector they are not the product of any negotiation, and in the majority of cases, the working sector claims the wages are insufficient to cover the cost of living. It can be said that the most important changes occur outside of the salary fixing machinery. For example, the methodologies used to determine the cost of living or inflation directly impact the determination of the minimum wage.

F.2. WORK SCHEDULE

1. RELEVANT NATIONAL LABOR LAWS

1.1. Constitutional laws

This topic is regulated by Article 58 of the Constitution that expressly provides:

> "The ordinary daily work shift shall not exceed eight hours per day and forty-eight hours per week. The ordinary night work shift shall not exceed six hours per day and thirty-six per week. Overtime work shall be compensated by fifty percent more than the stipulated salary or payment. However, these rules will not apply to certain, qualified exceptions, as the law determines."

1.2. Convention-based laws

Convention 90 (revised) concerning the Night Work of Young Persons (Industry), which revises Convention 6,[13] and defines the prohibition on minors working night shifts.

Convention 89 (revised) concerning the Protocol to the Night Work Convention (Women), which revises Conventions 1 and 41 (not approved by the country) and defines the night shift and the maximum duration of the shift.

1.3. Legal standards

Chapter II of the Labor Code, regulates the Work Shift, and covers Articles 135-146. The following table provides the text of each Article.

TEXT:
ARTICLE 135- Work between 5 a.m. and 7 p.m. is the day shift and work between 7 p.m. and 5 a.m. is the night shift.

[13] Costa Rica did not approve Convention 6.

ARTICLE 136- The ordinary labor shift shall not be more then eight hours per day, six hours per night and forty-eight hours per week. However, for jobs that are not unhealthy or dangerous by nature, an ordinary daily shift of up to ten hours may be stipulated, or a mixed shift of up to eight hours, as long as the weekly work does not amount to more than forty-eight hours. The parties shall be able to contract freely the break times and meal times, according to the nature of the work and legal rulings.

ARTICLE 137- Effective work time is that time in which the worker is under the orders of the employer or when s/he cannot leave the place where s/he is rendering services during breaks and meals. But the mandatory minimum break granted to all workers, of one half hour during the middle of the shift shall be considered effective work time, as long as it is taken all at once. *(Added by Law No. 31 of November 24, 1943).*

ARTICLE 138- Except as provided in Article 136, the mixed shift is in no case to exceed seven hours, but it shall be considered a night shift if three and a half or more of the hours are worked between 7 p.m. and 5 a.m.

ARTICLE 139- The effective work executed outside the parameters set above, or which exceeds the shift of less time that was contractually agreed to, constitutes an overtime shift and shall be remunerated with fifty percent more than the minimum salary or than the salary superior to that that to which the parties have agreed. Those hours that the worker has spent correcting mistakes committed during the regular shift, attributable only to that worker, shall not count as overtime. Work outside of the ordinary shift and during day hours that the worker completes voluntarily in agricultural or cattle jobs shall also not merit overtime compensation. *(Reformed by Law No. 56 of March 7, 1944).*

ARTICLE 140- The overtime shift, added to the ordinary shift, may not exceed twelve hours except where a sinister event or an imminent risk is endangering the people, establishments, machinery or installations, the plant, products or harvest and where, workers could not be substituted or suspended without evident harm.

ARTICLE 141- In jobs that are dangerous or unhealthy by nature, overtime shifts are not permitted. *(The second part reformed by Law No. 25 of November 17, 1944).*

ARTICLE 142- Bread shops and dough factories that make products for public consumption are required to employ different teams comprised of different workers, as necessary to do the job in a time that does not exceed the limits set by Article 136, and without any team repeating a shift if not replaced by another team.
The respective employers are required to keep a book, stamped and authorized by the General Labor Inspection, in which it shall note each week the list of teams of operators that work during the different daily, night and mixed shifts.
(Reformed by Law No. 3372 of August 6, 1964).

ARTICLE 143- The following are not subject to the shift limitations: managers, administrators, authorized employees, and all those employees that work without immediate supervision; employees who occupy positions of trust and confidence; commissioned agents; and similar employees who do not carry out their work in the place of the company; those who perform discontinuous functions or which require only their own presence; and those people who carry out work that, due to its unmistakable nature, are not subject to shift work. However, these people shall not be required to remain more than twelve hours per day at work and they shall have the right, during that shift, to a minimum break of one and one half hours. *(Reformed by Law No. 2378 of September 29, 1960).*
ARTICLE 144- Employers shall state in their salary books, duly separated from the part having to due with ordinary work, that which they pay each one of their workers for overtime.
ARTICLE 145- The Executive Branch, if the studies done by the Ministry of Labor and Social Security so merit, shall be able to set limits inferior to those of Article 136 for jobs carried out in factories and other analogous businesses. *(Reformed by Law No. 5089 of October 18, 1972).*
ARTICLE 146- The details of the application of the previous articles for transportation companies and all those businesses whose work is of a special or continuous nature, shall be determined by the Regulations of this Chapter, in which the demands of the service and the interest of employers and workers shall be taken into account, and shall first be heard by the Ministry of Labor and Social Security. *(Reformed by Law No. 5089 of October 18, 1972).*

1.4. Other statutes of lesser importance

Regulation of Article 148 of the Labor Code was reformed by Law 7619 of July 24, 1996 No. 25570-TSS of October 7, 1996, published in *La Gaceta* No. 211 of November 4, 1996.

Decree No. 2600 of October 13, 1972 on Night Work for Women.

2. PRINCIPAL CHANGES IN THE LAW RELATED TO THE WORK SHIFT IN THE LAST TEN YEARS.

2.1. Relevant Statutes

Decree No. 2600 of 1972 on Night Work for Women provides that the suspension of the prohibition on night work for women employed in industry falls under the responsibility of the MTSS, as provided by article 88(b) of the Labor Code and Article 3 of Convention 89.[14] In particularly serious cases, where national interest demands it, the MTSS shall first consult with the interested organizations of employers and workers. Exception applies for the shift between 10:30 p.m. and 5 a.m. for businesses that comply with the following requirements:

[14] Related to the night work of women employed in industry (revised in 1948), adopted by the ILO and ratified by Law No. 2561 of May 11, 1960.

a) Their nature or activities demand operation based on one shift per day;

b) It adjusts to all the protective laws for workers;

c) The work is not heavy, unhealthy or dangerous, and they adopt hygiene and safety measures that indicate the competent authority; and

d) Adequate transportation is available for those workers who need it.

2.2. The origin of these laws

All existing laws are based on the regulations of the Labor Code. The aforementioned Decree, which establishes an exception for compliance with International Conventions, is also based on the possibility for exceptions provided by the Constitution.

2.3. The consequences of enforcing these laws on the work shift

Perhaps the most controversial topic in this section is the provision for a "very qualified exception as the law makes available." According to this provision of Article 58 of the Constitution, it is possible to legislate exceptions for special situations. There has already been one legal decision contemplating this circumstance.

However, due to the new economic tendencies proposed by the Costa Rican government, it has started to promote forcefully a legal reform to open up the work shifts (which is already being tolerated by the administrative authorities), possibly by applying the exception as a rule (Carro, 89). It is in this context that practices and proposals are being introduced to excessively extend the work shift, implementing a 12-hour shift known as "4x4" and "4x3". This practice is followed by private security companies and some industries and entities dedicated to commerce. These are precisely the sectors in which not a single union exists.

In Costa Rica, other bills have also been proposed, such as Bill No. 15,161 that proposes that the Executive Branch achieve the "flexibilization of the work shift" based on a simplistic vision, as if competition and productivity only depended on the length of the work shift (Hernández, 6).

The theme of labor flexibility is part of the transformations occurring in the global economy, especially in poor countries and those countries about to integrate into the process of globalization conceived of and directed by the rich countries. This scheme no longer allows labor rights to have the same profile they had before.

2.4. Perspectives on the future of these laws

The following table presents different bills presented in the Legislative Assembly on this topic.

THEME	NAME	NUMBER	STAGE	PROVISIONS
Decent Working	REFORM OF	Record	Plenary	Provided, *supra*, in the

Conditions: Work hours and public policies on labor issues.	CHAPTER VIII OF THE LABOR CODE: " "ON THE WORK OF DOMESTIC SERVICE"	N°13,413.	to be archived	section on "Elimination of Forced labor and Mandatory Overtime"
Decent Working Conditions: Work hours and public policies on labor issues.	BILL: REFORM OF SEVERAL ARTICLES OF THE LABOR CODE	Record N°15,161	Social Commission No. 4. No opinion.	"Work Shift Flexibility", definition of day shift, overtime shift, etc.
Decent Working Conditions: work shifts and health conditions.	BILL: REFORMA DEL ARTCLE 15 OF THE LAW ON SALARIES IN THE PUBLIC ADMINISTRATION	Record N°14,619		Prohibits teachers from giving more than 35 lessons a week in property

In *La Gaceta* No. 240 of December 12, 2003, through Decree No. 31,503-MP, the bills Record No. 15,161, Reform of several articles of the Labor Code, and Record No. 13,818, Law on the Promotion of the Employment of Youth, were convoked to extraordinary sessions of the Legislative Assembly.

The Commission for Social Matters is familiar with the bill found in Record No. 15,161, which advocates for the flexibilization of the work shifts. The Commission sent the text to a subcommission to study it. It is made up of representatives of the Libertarian Movement Party (*Partido Movimiento Libertario*), the Party of Social Christian Unity (*Partido Unidad Social Cristiana*), and the so-called "Patriotic Bloc" ("*Bloque Patriótico*") (which is a division of the Party of Citizens' Action, or *Partido Acción Ciudadana*). Following the legislative procedures, the texts have been sent for consultation to several entities (Supreme Court of Justice, Ministry of Labor, Ombudsperson of the People, Attorney General of the Republic, the National Insurance Institute, Confederation of Workers Rerum Novarum, the National Association of Public and Private Employees, Union Central of Costa Rican Workers, and the Costa Rican Chamber of Commerce of the Private Company. The bill has a Report of Technical Services (carried out by the technical legal regimen), which means that the work of the Subcommittee can be expedited. Once it leaves the Subcommittee, it must be analyzed in the Commission for Social Matters. In principle, the members of Parliament return to session in January 2004.

3. OBSTACLES TO THE ENFORCEMENT OF THE LABOR LAWS RELATED TO THE WORK SHIFT:

3.1. List of obstacles

1. FLEXIBILITY OF THE WORK SHIFT IS AN INITIAL TOOL TO RUPTURE THE LABOR LEGISLATION. The priority that the government has given this matter in the special context presented by the negotiations for the Free Trade Agreement with the United States, is an indicator that this tool to "open" the work shifts is a way to stimulate commercial opening to the detriment of working conditions. Curiously, a modification to the law of this type could have consequences even at the level of organizing workers. The extension of the work shift would result in a weakening of the availability of union organizing, among other things. Perhaps even more serious would be health impacts

2. THE PRINCIPLE THAT THE EXTENSION OF THE WORK SHIFT IS ONLY AUTHORIZED IN CERTAIN EXCEPTIONS IS IGNORED IN PRACTICE BY THE SYSTEM ITSELF. One case that demonstrates this is the cited Decree that provides for an exception with respect to compliance with the terms of International Conventions. There are companies currently governed by the extended schedules (of 4 x 3), which are not sanctioned by the administrative authorities.

F.3. MATERNITY LEAVE

1. RELEVANT NATIONAL LABOR LAWS

1.1. Constitutional laws

The Political Constitution expressly provides for a law protecting the right to maternity in Article 73: "Social security is established to benefit manual and intellectual workers, regulated by the system of forced contribution of the State, employers and workers, to protect them against the risks of sickness, invalidity, maternity, old age, and death, and other contingencies that the law determines (...)". Article 51 also grants the special protection to mothers.

1.2. Convention-based laws

Costa Rica has not incorporated any ILO Convention on maternity leave into its national laws.

Convention on the Elimination of all forms of Discrimination Against Women, CEDAW. Law #6968.

1.3. National Statutes

The reforms to the Labor Code that originated in the Law on the Promotion of the Social Equality of Women. Law No. 7142 of March 8, 1990.

The most important articles of the Labor Code related to the rights of pregnant women are those found in Chapter VII, called "On the work of women and minors."

Article 94 prohibits employers from firing pregnant or breast-feeding workers, except if there is "just cause" based on a serious failure of duties as laid out in the contract, in accordance with the causes for termination established in the Code. If the employer decides to fire a pregnant or nursing woman for just cause, s/he must process the termination through the National Office of Labor Inspection, proving the worker's failures. Only in exceptional cases will the Office order the suspension of the worker, pending resolution of the termination procedure. For a worker to enjoy the protection of this Article, she must give notice to her employer that she is pregnant or nursing and provide medical certification or verification from the Costa Rican Social Security Fund. The case law has maintained that this is not a requirement to exercise the right, but rather proof to

demonstrate her pregnancy, even after the fact.[15] It was clarified that the medical certification of pregnancy by the Social Security Fund is not a requirement, as its absence does not signify the loss of the law's protection. Rather, it is an evidentiary requirement to prove pregnancy.

But according to statements of the Office of the Ombudsperson of the People, "It is the opinion of this Office that the condition of maternity of the woman, from a legal point of view, covers the period of gestation, the enjoyment of the period of pre-partum and post-partum, as well as the period of nursing – all of which are included in the regimen of special." The appropriate, just, and legal position, consistent with constitutional principles of equality (Article 33) and protection of the pregnant woman (Article 51) is that any appointment of property shall be effective the day immediately following the expiration of maternity of the employee.[16]

Article 94b provides that the pregnant or nursing woman who is fired in contravention of the provisions of the previous article shall be able to take her claim before a labor judge and shall be immediately reinstated, in the full enjoyment of her rights. This article also provides the steps to be taken for these purposes.

Article 95 states that the pregnant worker shall enjoy a mandatory, paid maternity leave of one month prior to birth and three months after birth. These three months will also be considered as the minimum period for breast-feeding. The article regulates the system of remuneration that shall govern this period, charged to the Costa Rican Social Security Fund. The amount of remuneration for this period shall be the equivalent of the worker's salary, and shall be covered, in equal parts, by the employer and the Costa Rican Social Security Fund. She will receive what she would normally earn during maternity leave, in order to not interrupt her expenses and budget during that period.

An innovative aspect introduced in this article is the principle that the same rules apply for a woman who adopts a minor.

Article 97 provides that all nursing mothers the workplace shall be permitted a break of fifteen minutes every three hours, or if she prefers, of a half hour twice during the work shift, to nurse her child, except where a doctor's note says that she needs less time. It is the employer's responsibility to find time for the woman to take a break within the possibilities of her work. The break shall count as effective work time, like the breaks mentioned in the paragraph on remuneration.

Finally, Article 100 requires all employers with more than thirty women in the company to provide a space where they can nurse their children safely. This condition can be complied with very simply, within the economic possibilities of the employer, in the judgment and approval of the Office on Safety and Hygiene in the Workplace.

---

[15] Judgment of the Constitutional Chambers, No. 6697-94 of 2:57 p.m. on November 15, 1994.

[16] Office of the Ombudsperson. Record No. 2813-01-94. Recommendation of September 30, 1994.

1.4. Other statutes of lesser importance

Article 43 of the Regulations on Insurance of Illness and Maternity approved by the Board of Directors of the Social Security Fund on February 4, 1952, provides in reference to maternity, that each insured shall receive disability for four months, including a period of prepartum and post-partum, according to the general and special laws applicable to different groups of workers. The amount of the subsidy shall be equal to 50 percent of the average salary calculated according to the provisions of the Labor Code and in conformity with the salary reported by the employer in the books kept for the Fund.

This article also provides that in the event of a stillbirth, the period of disability for breast-feeding shall be modified, granting a new one of one month after the date of birth. And if a nursing baby dies during the period of disability, disability shall be suspended thirty days after the death of the child, without exceeding the three-month period of disability for breast-feeding.

Article 45 establishes that the insured woman with the right to maternity who proves she is suffering from an illness related or not to the birth itself, shall have the right to medical attention for that illness in the form established by the present regulation, even though at the moment of birth her status as actively insured with the right to medical attention for illness ended.

Article 49 says that the doctors of the Fund, in accordance with the results of prenatal tests, shall determine the kind of assistance needed (e.g., home, hospital, or any other kind).

2. PRINCIPAL CHANGES TO THE LAW RELATED TO THIS TOPIC I NTHE LAST TEN YEARS.

2.1. Relevant statutes

Despite the fact that Costa Rica has not approved Convention 183 of the ILO, the CEDAW Convention protects those rights.

Article 11.2 of CEDAW establishes that, with the objective of impeding discrimination based on marriage or maternity and assuring the efficacy of her right to work, States shall prohibit, under penalty of sanctions, terminations based on pregnancy or maternity leave and discriminatory terminations based on civil status. States shall also encourage the provision of necessary social support services to permit parents to combine family obligations, the responsibilities of work, and participation in public life, especially through the creation and development of child care services.

The "Report of the State of Costa Rica on Compliance with the CEDAW," a 2002 publication of the National Institute on Women (INAMU), states that in the public sector, where the principle of labor stability supposedly has more strength, one of the most vulnerable groups in terms of the enjoyment of labor rights is pregnant women. Pregnant women require the protection and security during the gestation period, birth and

puerperium, for their benefit as well as for the children to whom they give birth. The Ombudsperson confirmed discrimination in these cases (Labor Report of the Ombudsperson of the People, 2000/2001).

There is a perception that a pregnant woman constitutes an "expense" for whoever hires her (and this perception prevails in public employment as well as in private companies). The Ombudsperson has confirmed several cases in which many women who have enjoyed temporary appointments are not renewed when they become pregnant.

2.2. The origin of these laws

The laws referred to have their foundation in the sweeping social reforms of 1943 in Costa Rica, which were later molded in the 1949 (current) Constitution and the regulations of the Social Security Fund. Years later, during the boom surrounding the Human Rights declarations, the country started adopting international norms leading to laws such as the Law of Maternal Breast-feeding (Law No. 7430 of September 7, 1994) which, though not a labor law, is specifically related to the labor of women in general.

2.3. The consequences of enforcing these laws on maternity leave

Pregnancy is perceived as a negative condition for women because job opportunities close as a result. In light of this, an awareness-raising strategy has been proposed to empower women so they know their rights, and so that these rights are eventually applied regularly.

2.4. Perspectives on the future of these laws

Considering that international instruments of the ILO on this topic remain to be adopted, and the need to recognize men's shared responsibility for childcare, two bills have been proposed.

The following table presents the general provisions of the two bills before the Legislative Assembly concerning this topic.

THEME	NAME	NUMBER	STAGE	PROVISIONS
Decent Working Conditions: Maternity Leave	APPROVAL OF CONVENTION 183 CONCERNING REVISION OF THE CONVENTION ON MATERNITY PROTECTION	Record N°14544.		
	REFORM OF ARTICLE 95 OF THE LABOR CODE	Record N°14.959	Women's Commission No. 7. No opinion.	Seeks to modify that article and legislate the recognition of paternity leave.

The first would provide the necessary approval of Convention 183 of the ILO, which would represent a framework for regulation of the topic and would complement the diverse case law that has developed on this subject.

The other initiative, concerning a subject that legislation has not yet considered, would give fathers the right to paternity leave to care for their minor children.

3. PARALLEL NON-LABOR LEGISLATION:

3.1. General reference to these laws

One of these is the General Health Law No. 5395 of November 8, 1973. Article 12 of this law prohibits manufacturers and distributors from directly or indirectly facilitating, for pregnant women and nursing mothers, free products or utensils that encourage the use of substitutes to mother's milk. In situations of national disaster, the National Commission on Emergencies shall regulate the distribution of such substitutes.

The Law of Breast-feeding Mothers created the National Commission on Maternal Breast-feeding, in its third article, as an organ under the Ministry of Health. Its functions are to recommend policies and laws on maternal breast-feeding that be promulgated as (a) practices supporting maternal breast-feeding; (b) promotion of breast-feeding through educational activities; (c) legislation that protects working mothers; (d) research projects that put into practice activities to encourage and protect breast-feeding. It shall also coordinate and promote activities tending to encourage breast-feeding. The Commission is composed of the Ministry of Health, the Ministry of Public Education, the Ministry of Economy, Industry, and Commerce, the Costa Rican Social Security Fund, the Costa Rican Institute for Research and Education for Health and Nutrition, the School of Nutrition of the University of Costa Rica, and the Costa Rican Chamber of Commerce for Private Business (Article 4).

3.2. Relevance of these laws to maternity leave

Although the cited laws are not labor laws *per se*, their effects on labor are fundamental because these regulations are another important resource that working women can turn to demand their rights.

However, there is a fundamental limitation in the lack of knowledge of these laws among the general population, which contributes to a lack of enforcement. Similarly, there may be a lack of knowledge of the judicial and administrative authorities as well that discourages general knowledge of these rights.

3.3. Perspectives on the enforcement of these laws and how they affect compliance with maternity leave

It is believed that approval of ILO Convention 183 and the bill encouraging paternity leave would give more solid support to women's rights. However, the approval of CEDAW helps support the enforcement of these rights, at least in theory.

4. OBSTACLES TO THE ENFORCEMENT OF THE LABOR LAWS RELATED TO MATERNITY LEAVE:

4.1. List of obstacles

1. THERE IS A MENTALITY AMONG EMPLOYERS THAT PREGNANT WORKERS ARE A DISADVANTAGE. Maternity, birth, and the need to care for children cannot be a disadvantage in hiring and labor conditions, and cannot be the cause of termination or of discriminatory treatment.

2. IN COSTA RICA THERE IS AN ABSOLUTE LACK OF PUBLICITY ABOUT THE RIGHTS OF PREGNANT WORKING WOMEN. The lack of awareness among the general population of these laws and rights is a fundamental limitation. Similarly, there may be a lack of knowledge of the judicial and administrative authorities as well that discourages general knowledge of these rights.

3. UNPAID DOMESTIC WORKERS IN THEIR OWN HOMES ARE NOT REFERRED TO AS SUBJECTS OF THESE RIGHTS. So-called "housewives" are not referred to as beneficiaries of these rights. Because of they are "domestic employees of their own homes" they are not considered part of the system as active workers.

CONCLUSION

This study has identified legal, political, and practical obstacles to compliance with labor laws in Costa Rica. This investigation used information from many formal sources (laws, jurisprudence, cases) and also included fieldwork and interviews outside of the capital. Certainly there will be some gaps, particularly due to the short time period available for carrying out this study, and the lack of other studies dealing specifically with these issues.

This study has opened up a series of issues for discussion, including:

- Freedom of Association

Here it would be useful to look at statistics showing repression of union, and also to compare the resources that State entities designate to promote unionization. This study provides a referential context that demonstrates that unions are repressed in the Costa Rican system.

- Right to Collective Bargaining

With regard to this right, it would be useful to look at statistics on the utilization of negotiation instruments, and try to verify our hypothesis that employers are using "direct accords" to replace other collective negotiation mechanisms.

- Elimination of forced labor and obligatory overtime

Here it would be very important to clarify the reality of some productive activities (maquilas, for example), to verify that these companies have policies in Central America that hurt workers by demanding high production quotas and long hours. It would also be interesting to look at the formation of unions in the maquila sector, proposing mechanisms that would help promote unionization there.

- Elimination of child labor

It would be interesting to determine the working conditions faced by child workers in different sectors, including those in agriculture, and looking specifically at children who are migrants or indigenous.

- Elimination of discrimination

On the issue of discrimination, it would be important to know how to effectively develop and utilize anti-discriminatory public policies in societies like Costa Rica that have many hidden prejudices. This would involve studying policy proposals regarding discrimination.

Labor rights conditions in Costa Rica in the context of the CAFTA negotiations

In an analysis of labor issues and free trade agreements, specifically in the case of Costa Rica, the following aspects emerge:

1. Some say that CAFTA will help ensure that labor standards are respected in each country.

2. Costa Rica's only concrete experience has been with the trade agreement with Canada. Parallel to that, both countries signed an "Agreement on Labor Cooperation" which, according to one study (Hernandez s.f.), does not guarantee improved working conditions for those affected by this bilateral agreement;

3. Chile, which has more experience with FTAs, has not modified any of its national labor laws, which leads us to conclude that labor issues are not seen as a priority in these types of agreements.

These three factors, in addition to the list of obstacles we have noted throughout this study, allow us to make some preliminary conclusions.

The imposition of conditions by CAFTA will conflict with the different national sectors concerned with developing a more equal and just system.

In terms of labor issues, workers' their rights to unionize, to negotiate working conditions, and to receive fair salaries and basic social services, have not been resolved. It will be even harder to achieve these goals if CAFTA is approved, because the market pressures,

influenced by external interests and the stress of trying to remain competitive and prevent the loss of markets, will make it more difficult to approve changes that will promote these rights.

CAFTA has encountered a Costa Rica with little union activity (due to the repression and the lack of promotion), an artificial discrediting by State entities of the collective bargaining process (especially in the public sector), and many failures to comply with other labor regulations, such as the decrease in salaries' real value and the lack of regulation of some activities (agricultural work, domestic work, adolescent workers).

In the fact of those problems, we have a political system that does not promote labor rights and does not adequately fund the governmental departments responsible for monitoring compliance with labor rights. This leads to repercussions throughout the system, including the judicial branch, which does not keep up with its cases and does not adequately prepare its judges. Meanwhile, the legislature promotes labor policies based on flexibilization and deregulation.

The political apparatus remains a static and cold representative democracy, with mechanisms that discourage citizen participation. The unions are not promoted as entities with a Constitutional status that belong to the workers, and in fact, the government system seems disposed to eradicate them, or at least confuse them with other entities like the solidarity associations.

The loss of power that union organizations have suffered in the Popular Bank Assembly in recent years is a sign of the system's unwillingness to have these organizations exert significant influence in the definition of socio-economic public policies. In addition, in terms of the CAFTA negotiations, government authories did not open spaces to allow workers' organizations and other civil society groups to influence the FTA. This is the result of the powerful influence of the national economic sectors and the fact that the Costa Rican system does not have mechanisms to achieve real transparency and participation.

In the end, when CAFTA is finalized, we will have to ask what technical or political considerations the national negotiators had in terms of labor rights. Perhaps they not only fail to understand the philosophy of the movement, but also have had life experiences that have made them prejudiced towards unions and the labor rights movement. None of the negotiators or government leaders involved with the negotiating team has belonged to the organized labor movement. Maybe those officials will say, as they have on other occasions, that the FTA is not supposed to deal with labor issues, and that the included clauses say that working conditions are an issue for each individual country to deal with. That is precisely what the 2003 ILO report said: that such trade agreements have not led to improvements in the labor-judicial systems of the participating countries.

Connecting the three points listed at the beginning of this section with the other references, we can see that the FTA's guarantee that the labor standards of each country will be respected, is really an outrage. In the case of Costa Rica, that would mean fewer unions, fewer collective bargaining agreements, more anti-union actions, and a continued lack of funding for administrative and judicial entities responsible for protecting labor rights. The

agreement with Canada –which even used an "Agreement on Labor Cooperation"- has not afforded any qualitative advancement in working conditions for Costa Ricans. Finally, Chile, which has promoted many such trade agreements, has not significantly modified any of its internal labor norms, despite the ILO's 2003 criteria regarding the conditions of the working class in countries that have signed FTAs.

Overcoming the obstacles and promoting compliance with the norms

If we summarize the listed obstacles and application failures, we see two fundamental deficiencies. One is ideological: the difficulty of understanding the magnitud of a historical category like labor law. The other is economic: the lack of resources to promote policies and system that protect labor rights. The way to overcome all of these problems is based on the following combination of these two factors. In the judicial sphere, more resources must be allocated, and there must be discussions on how to best train the judges. In the administrative arena, the governmental authorities must give the Ministry of the Interior more power in addressing labor rights issues. Resources must be allocated to allow this Ministry to apply the progressive legislation that is often already a part of its internal regulations. From the ideological point of view, we must advocate for a change in the mentality of the officials so that they interpret the labor law to the full extent granted by history.

The defense of the right to freedom of association should be given the same importance as the promotion of any other Constitutional right. This will require a change in the attitude of administrative and judicial officials who currently hold anti-union opinions. There must be absolute respect for the right to create unions, and the State must fulfill its responsibility of promoting and defending this right, particularly in the face of other structures like *solidarismo.*

Unions must be allowed to have greater representation in the National Assembly of the Popular Bank, because this will give them more influence in the process of defining the State's economic policies.

The principle of *fuero sindical* should be extended to all workers, giving them a reasonable measure of job stability.

It is important to promote and defend the right to collectively bargain in the public sector, because all labor relations should be established through a collective negotiation process.

With respect to the elimination of forced labor and obligatory overtime, there are proposals to eliminate the "schedule of availability".

To address child labor, aggressive public policies must be developed to prevent flexibilization tendencies from allowing the acceptance of child workers. Economic resources must be allocated for these policies.

Public policies must also be created to eliminate discrimination, and resources must be allocated for awareness-raising programs.

BIBLIOGRAPHY

ABARCA, Carlos. Los movimientos sociales en el desarrollo reciente de Costa Rica. Segunda reimpresión de la Primera Edición. San José. (Nuestra Historia, fascículo N°18). Editorial Universidad Estatal a Distancia. 1992.

ABDALLAH ARRIETA, Leda y COKYEEN MOC, Olga Marta. Estudio crítico – interpretativo sobre la práctica de la inspección laboral del Ministerio de Trabajo y Seguridad Social (MTSS) de Costa Rica. Estudio ASEPROLA-FORO EMAUS. San José. Mimeografiado. Julio 2003.

ALVAREZ SACRISTÁN, Isidoro. Diccionario Jurídico-Laboral. Madrid. Editorial Civitas. 1983.

ASEPROLA. Seguimiento al tema laboral en las Rondas de Negociación del TLC entre Centroamérica y Estados Unidos. Despierta Pueblo. Publicación de la Pastoral Social-Diócesis de Limón. Limón. Junio 2003.

BANCO INTERAMERICANO DE DESARROLLO. Comunicado de Prensa; 29 de mayo de 2003. http://www.inventariando.com/articulo.php?id=2908.

Las economías de los países centroamericanos: desafíos comunes de cara al siglo XXI. Departamento Regional II, julio de 1998. http://www.iadb.org/regions/re2/amcent/capxiii.htm.

BANUETT BOURRILLON, Marcelle. Situación laboral en las zonas bananeras del caribe costarricense . Asociación Servicios de Promoción Laboral ASEPROLA y FORO EMAUS. San José. Mimeografiado. Junio 2003.

BLANCO, Gustavo. Cinco hipótesis sobre una ofensiva del solidarismo en América central. CEDAL, ASEPROLA. El problema solidarista y la respuesta sindical en Centroamérica. Primera Edición. Heredia-Cedal, 1989. Págs. 131-156.

BLANCO VADO, Mario. Comentario acerca del Fallo 5000 Sala Constitucional y Ley N°7360. Editado por ASEPROLA. San José, 1994.

BLANCO VADO, Mario, y TREJOS, Maria Eugenia. El sindicalismo en el sector privado costarricense. 1 Edición. San José. Fundación Friedrich Ebert. 1998.

CADEXCO-ANEP-CTRN-MOVIMIENTO SOLIDARISTA. Pacto Fiscal: un acuerdo para enfrentar los desafíos del siglo XXI. San José. Mimeografiado. Abril 2002.

CANESA MONTEJO (Miguel), Los derechos sociales en el marco de los derechos humanos, Abogado y Sociólogo de la Pontificia Universidad Católica del Perú, en Revista Asesoría Laboral N°108, Lima, Año IX, Diciembre 1999.

CAPON FILAS, Rodolfo y GIORLANDINI, Eduardo. Diccionario de Derecho Social. Derecho del Trabajo y la seguridad social. Relación Individual de Trabajo. Santa Fe Argentina. Rubinzal-Culzoni Editores. S.f.

CARRO, Maria del Rocio. La flexibilidad laboral: Pasos preliminares para un cambio. RELACENTRO. Revista de Relaciones laborales. San José, Publicación de la Oficina Internacional del Trabajo. N°2, Año 2, Junio 2002. Pags 79-92.

CENTRO NACIONAL DE TRABAJADORES. Denuncia sindical sobre el solidarismo en Costa Rica. CNT, CATD, CCTD. San Jose. Editado por ASEPROLA. 1989.

CHACON CASTRO. Rubén. Estudio Legal-Organizativo acerca de las consideraciones para fundamentar la creación de una Defensoría o Dirección de Defensoría Laboral en la Defensoría de los Habitantes de la República. Mimeografiada. FORO EMAUS-ASEPROLA. San José. 24 DE MARZO 2003.

Función publica en el sistema costarricense: El régimen de las relaciones laborales (publicas y privadas) entre la administración y sus servidores. Maestría de Derecho Publico. Facultad de Derecho. Universidad de Costa Rica. Mimeografiada. Julio 2003.

CHEVIGNY, Paul (et al). La (in) efectividad de la ley y la exclusión en América latina. Compilado por Guillermo O`Donnell y Juan E. Mendez. Primera Edición. Buenos Aires. Paidos, 2002.

DE LA CRUZ, Vladimir. Las luchas sociales en Costa Rica 1870-1930. San José. Primera Edición. Editorial de la Universidad de Costa Rica-Editorial Costa Rica. 1980.

DEFENSORIA DE LOS HABITANTES DE LA REPUBLICA. Página web. Dirección: (http://www.dhr.go.cr/dhr605.html) .

Informe Anual. San José. 2000-2001.
Informe Anual. San José. 2001-2002.
Informe Anual. San José. 2002-2003.

GIULLIANI FONROUGE, Carlos M. Derecho Financiero. Título Primero. Principios Generales. Buenos Aires. Editorial Ediciones Depalma. Segunda Edición. Volumen 1. 1973.

GONZALEZ CAMACHO, Oscar Eduardo. La Justicia Administrativa. Tomo I. Control Judicial Pleno de la Administración Pública. San José. Primera Edición. Investigaciones Jurídicas S.A. 2001.

GONZALEZ GRAMAJO, Maritza; JOVEL SÁNCHEZ, Carlos; MIRANDA, Amy; SOLANO ULLOA, Evelin, SOTO CORDOBA, Victor, y TRIGUEROS, Xinia. "Los derechos prestacionales del el ámbito laboral en Costa Rica". San José, Mimeografiada.

Universidad de Costa Rica, Sistema de estudios de postgrado. Maestría en Derecho Publico. Curso de Derechos Fundamentales. Mayo, 2002

GUEVARA, Marcos y CHACON, Rubén. Territorios Indios en Costa Rica. San José. Imprenta García Hermanos. 1992.

HERNÁNDEZ SAMPERI, Roberto. Fernández Collado, Carlos. Baptista Lucio, Pilar. Metodología de la Investigación. México. Mc Graw-Hill Interamericana de México. 1991.

HERNÁNDEZ VALLE, Rubén. Derecho Electoral Costarricense. San José. Editorial Juricentro. 1990.

La tutela jurisdiccional de los derechos prestacionales en el sistema interamericano en relación con las legislaciones nacionales, en Compendio elaborado por la Secretaría de la Corte Interamericana de Derechos Humanos en honor a Héctor Fix-Zamudio, San José, Costa Rica, 1998.

El Régimen Jurídico de los Derechos Fundamentales en Costa Rica. San José. Editorial Juricentro. 2002.

HERNÁNDEZ VENEGAS, Manuel. ¿Flexibilidad o desregulación de la jornada de trabajo?. San Jose. Asociación Servicios de Promocion Laboral (ASEPROLA). 2003.

El Acuerdo de Cooperación Laboral entre Costa Rica y Canada. Documento proporcionado por ASEPROLA en versión electrónica. S.F.

HERRERA VALENCIA, Beethoven. Los acuerdos de la OMC y su impacto en las relaciones laborales. RELACENTRO. Revista de Relaciones laborales. San José, Publicación de la Oficina Internacional del Trabajo. Nº2, Año 2, Junio 2002. Pags 57-78.

OFICINA INTERNACIONAL DEL TRABAJO. Informe de la Comisión de Expertos en Aplicación de Convenios y Recomendaciones. Informe III (parte 1A). Conferencia Internacional del Trabajo. 90ª reunión, 2002. Publicación OIT. Ginebra, Suiza, 2002.

Observación individual sobre el Convenio 98. 1998

Observación Individual relativa al Convenio 98. Sesion de la Conferencia 87, Documento 23. Publicación 1999.

Examen de caso individual relativo al Convenio 98. Sesion de la Conferencia 89, Documento 19. Publicación 2001.

Examen de caso individual relativo al Convenio 98. Sesion de la Conferencia 90, Documento 28. Publicación 2002.

Trabajo Infantil domestico en America Central y Republica Domicana. Síntesis subregional. San Jose. Master Litho. S.A. 2002.

ORTIZ, Eduardo. La Municipalidad en Costa Rica. Instituto de Estudios de Administración Local. Madrid. 1987.

LEROY MILLER, Roger. Microeconomía Moderna. Cuarta Edición. México. 1982.

MARIN QUIJADA, Enrique. La negociación colectiva en la Función Publica. Bogota. Editorial TEMIS. 1978.

MINISTERIO DE TRABAJO Y SEGURIDAD SOCIAL. Marco Normativo de la Inspección General del Trabajo. San Jose. Segunda Edición. 2001

RIVERA, Rolando. Consecuencias del solidarismo en el movimiento sindical costarricense. CEDAL, ASEPROLA. El problema solidarista y la respuesta sindical en Centroamérica. Primera Edición. Heredia-Cedal, 1989. Pags. 57-69.

ROMERO, Jorge E. Deuda Interna. Enfoque Jurídico. San José. Editorial UNED. 1998.

Derecho y Globalizacion. Revista de Ciencias Juridicas Nº 98.

SÁNCHEZ MORON, Miguel. Discrecionalidad administrativa y control judicial. Editorial Tecnos. Madrid. 1989.

SEPÚLVEDA MALBRAN, Juan Manuel. El Movimiento Sindical: Un actor en busca de su identidad. RELACENTRO. Revista de Relaciones laborales. San José, Publicación de la Oficina Internacional del Trabajo. Nº1, Año 1, Octubre 2001. Pags 157-174.

TREJOS, María Eugenia, y ABDALLAH, Leda. Discusión y aplicación de la flexibilidad laboral en Centroamérica. Espacios Consultores. Mimeografiada. San Jose. Diciembre 2000.

VILLASMIL PRIETO, Humberto. La reordenación del tiempo del trabajo: Presupuestos y Contexto. RELACENTRO. Revista de Relaciones laborales. San José, Publicación de la Oficina Internacional del Trabajo. Nº1, Año 1, Octubre 2001. Pags.77-88.

La globalización en el sistema de relaciones laborales: Una vision desde la OIT. RELACENTRO. Revista de Relaciones laborales. San José, Publicación de la Oficina Internacional del Trabajo. Nº2, Año 2, Junio 2002. Pags 93-110.

Interviews

Interviewee	Entity	Issue	Contribution to study	Date.
Esmirna Sánchez.	Office on Attention and Eradication of Child Labor, Ministry of Labor.	Information on complaints received by the Ministry of Labor regarding child labor	Section on child labor	Sept. 2003.
Victor Soto Cordova.	Labor Judge	Labor procedures in jurisdiction: Work risks, labor infractions	Table about legal processes	Aug. 2003.
Gilbert Bermudez	COSIBA union leader	Repression of unions, working conditions on banana plantations.	Narrative on working conditions in banana plantations	Nov 2003.
Lic. Luis Serrano	Lawyer and union leader	Unionization in the private textile industry	Repression of unions in the textile industry, and irregular judicial actions	Dec 2003.
J.G. Araya A.	Union leader. Secretary Gen of SITRAPINDECO.	Unionization in the private agricultural sector.	Repression of unions in the agricultural sector.	Dec 2003.
Lic. Franklin Benavides Flores.	DNI Official; Secretary Gen of AFUMITRA union (union of Ministry of Labor workers)	The work of the National Labor Inspectorate (DNI) of the Ministry of Labor	Institutional reality of DNI and Ministry of Labor	Sept 2003.
Rosita Acosta.	Secretary Gen of ASTRADOMES, Union association of domestic workers.	Working conditions for domestic workers	Obligatory overtime case, working conditions extenuante.	Nov 2003. Speech at Foro Emaus activity